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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

APPELLANT: Kazich

ATTY. DOCKET NO.: VAK-P-03-001

SERIAL NO.: 10/800,225

GROUP ART UNIT: 1794

DATE FILED: March 12, 2004

EXAMINER: Weinstein

INVENTION: "AN APPARATUS, A SYSTEM AND A METHOD FOR COLLECTING  
DRIPS FROM A FROZEN TREAT"

Mail Stop Appeal Brief-Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

APPELLANTS' APPEAL BRIEF TRANSMITTAL LETTER

SIR/MADAM:

Appellant submits herewith Appellant's Appeal Brief in support of the Notice of Appeal filed December 26, 2007. Appellant encloses a check for \$255.00 for submission of this Appeal Brief. Appellant authorizes the Patent Office to charge any fees that may be due and owing or to credit any overpayment to Deposit Account No. 50-0595. A duplicate copy of this sheet is enclosed for this purpose.

Respectfully submitted,

(Reg. No. 35,018)

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CERTIFICATE OF MAILING

I hereby certify that this APPEAL BRIEF with CLAIMS APPENDIX CONTAINING CLAIMS 1-20, EVIDENCE APPENDIX CONTAINING EXHIBITS A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, Z, AA and BB and RELATED PROCEEDINGS APPENDIX, TRANSMITTAL (in duplicate), check for \$255.00 and return receipt postcard are being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Appeal Brief-Patents, Commissioner for Patents, Alexandria, VA 22313-1450 on February 26, 2008.



Brian M. Mattson (Reg. No. 35,018)



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**APPEAL BRIEF**

SIR/MADAM:

This Appeal Brief is filed in support of the Notice of Appeal dated December 26, 2007. The Appeal was taken from a Final Rejection dated October 26, 2007.

**I. REAL PARTY IN INTEREST**

Valerie Kazich is the real party in interest in this Appeal.

**II. RELATED APPEALS AND INTERFERENCES**

No other appeals or interferences are known to Appellant or Appellant's legal representative which will directly affect, be directly affected by, or have a bearing on the Board's decision in this appeal.

**III. STATUS OF CLAIMS**

Claims 1-20 are pending in this patent application. Claims 1-20 were finally rejected by the Examiner in a Final Rejection dated October 26, 2007 and are hereby on appeal. A copy of Claims 1-20

which are subject to this appeal are appended hereto as the Claims Appendix. The Final Rejection is appended hereto as Exhibit A of the Evidence Appendix.

#### **IV. STATUS OF AMENDMENTS**

All amendments have been entered in this patent application. No amendments to the claims were made after the Final Rejection.

#### **V. SUMMARY OF CLAIMED SUBJECT MATTER**

The present invention generally relates to an apparatus, a system and a method used during consumption of a frozen treat. More specifically, the present invention relates to an apparatus, a system and a method for collecting drips from a frozen treat on a stick with a handle which extends from the frozen treat.

Independent Claim 1 defines an apparatus for collecting drips from a frozen treat. FIG. 1 illustrates an apparatus 10 for collecting drips from a frozen treat 11 that may be mounted on a stick that may have a handle 13. (See page 9, lines 21-28.) Claim 1 requires a base defined by a perimeter wherein the base has a center point and the perimeter is equidistant from the center point. The base 12 may have a shape, such as, for example, a square, a rectangle, a circle, an oval, a triangle, a star and/or the like. (See page 10, lines 7-10.) The base 12 may have a perimeter 14. (See page 10, line 10.)

Further, independent Claim 1 requires that the base has a top layer covering a bottom layer wherein the base is planar. The

base 12 may have a top side 18 and a bottom side 20 which may be opposite to the top side 18. (See page 10, lines 11-12.) The base 12 may have a cover 24 attached to the base 12. (See page 10, line 26.) The cover 24 may have a first side 26 and a second side 28 which may be opposite to the first side 26. (See page 10, lines 27-28.) The cover 24 may have a perimeter 30 (See page 10, lines 27-28.) The second side 28 of the cover 24 may cover the top side 18 of the base 12. (See page 11, lines 3-4.) The cover 24 may be placed over the top side 18 of the base 12. (See page 11, lines 4-5.) The cover 24 may have the same shape and/or a similar shape of the base 12. (See page 11, lines 13-14.)

Still further, independent Claim 1 requires that the bottom layer is made from a material that is rigid wherein the top layer is made from an absorbent material. The base 12 may be made from a material, such as, for example, cellulose fiber, plywood, plastic, polyethylene, polyurethane and/or the like. (See page 10, lines 5-7.) The cover 24 may be a pad, such as, for example, a paper napkin, a coffee filter and/or a paper towel. (See page 10, lines 29-30.) Further, the cover 24 may be made from an absorbent material, such as, for example, a cotton fiber, a wood pulp fiber, a cellulose fiber, a polypropylene and/or the like. (See page 10, lines 30-33.) Still further, Claim 1 requires that the top layer has an outer edge wherein the bottom layer extends to a point outside of the outer edge of the top layer without overlapping the

top layer. The perimeter 30 of the cover 24 may be less than the perimeter 14 of the base 12. (See page 11, lines 9-10.)

Still further, independent Claim 1 requires a lip integrally formed on the perimeter of the base wherein the lip extends to a point above the top layer wherein the lip is perpendicular to the base wherein the outer edge of the top layer is adjacent to the lip without overlapping the lip. As illustrated in FIG. 1, the base 12 may have a lip 22 on the perimeter 14 of the base 12. (See page 10, lines 12-13.) The lip 22 may extend outward with respect to the top side 18 of the base 12. (See page 10, lines 14-15.) When the second side 28 of the cover 24 is attached to the top side 18 of the base 12, the perimeter 30 of the cover 24 may be located within the perimeter 14 and the lip 22 of the base. (See page 11, lines 10-13.) The drips may collect and/or may form pools on the top side 18 of the base 12. (See page 13, lines 20-22.) Further, the lip 22 may prevent the drips which have pooled on the top side 18 of the base 12 from flowing beyond the perimeter 14 of the base 12. Moreover, the lip 22 may protect the hand of the user and/or the surroundings of the user from the drips of the frozen treat 11. (See page 14, lines 21-27.)

Moreover, independent Claim 1 requires a passage at the center point of the base wherein the passage forms an opening through the top layer of the base and the bottom layer of the base. As illustrated in FIG. 1, the base 12 and the cover 24 may have an

opening 32 which may allow for passage of the handle 13 of the frozen treat 11. (See page 11, lines 22-24.)

Independent Claim 8 defines an apparatus for collecting drips from a frozen treat mounted on a stick. FIG. 1 illustrates an apparatus 10 for collecting drips from a frozen treat 11 that may be mounted on a stick that may have a handle 13. (See page 9, lines 21-28.) Claim 8 requires a base defined by a perimeter wherein the base has a center point and the perimeter is equidistant from the center point wherein the base has a top side and a bottom side positioned opposite to the top side wherein the base is planar wherein the base is made from a material that is rigid. The base 12 may have a shape, such as, for example, a square, a rectangle, a circle, an oval, a triangle, a star and/or the like. (See page 10, lines 7-10.) The base 12 may have a perimeter 14. (See page 10, line 10.) The base 12 may have a top side 18 and a bottom side 20 which may be opposite to the top side 18. (See page 10, lines 11-12.) The base 12 may be made from a material, such as, for example, cellulose fiber, plywood, plastic, polyethylene, polyurethane and/or the like. (See page 10, lines 5-7.)

Further, independent Claim 8 requires a lip on the perimeter of the base wherein the lip extends outward perpendicularly with respect to the top side of the base. As illustrated in FIG. 1, the base 12 may have a lip 22 on the

perimeter 14 of the base 12. (See page 10, lines 12-13.) The lip 22 may extend outward with respect to the top side 18 of the base 12. (See page 10, lines 14-15.)

Still further, independent Claim 8 requires an absorbing means covering the top side of the base wherein the absorbing means is located inside the perimeter of the base wherein the lip extends to a point above the absorbing means wherein the absorbing means has an outer edge wherein the outer edge of the absorbing means is adjacent to the lip wherein the base extends to a point outside of the outer edge of the absorbing means without overlapping the absorbing means. The base 12 may have a cover 24 attached to the base 12. (See page 10, line 26.) The cover 24 may have a first side 26 and a second side 28 which may be opposite to the first side 26. (See page 10, lines 27-28.) The cover 24 may have a perimeter 30 (See page 10, lines 27-28.) The second side 28 of the cover 24 may cover the top side 18 of the base 12. (See page 11, lines 3-4.) The cover 24 may be placed over the top side 18 of the base 12. (See page 11, lines 4-5.) The cover 24 may have the same shape and/or a similar shape of the base 12. (See page 11, lines 13-14.) The cover 24 may be a pad, such as, for example, a paper napkin, a coffee filter and/or a paper towel. (See page 10, lines 29-30.) Further, the cover 24 may be made from an absorbent material, such as, for example, a cotton fiber, a wood pulp fiber, a cellulose fiber, a polypropylene and/or the like. (See page 10,



lines 30-33.) The perimeter 30 of the cover 24 may be less than the perimeter 14 of the base 12. (See page 11, lines 9-10.) When the second side 28 of the cover 24 is attached to the top side 18 of the base 12, the perimeter 30 of the cover 24 may be located within the perimeter 14 and the lip 22 of the base. (See page 11, lines 10-13.) The drips may collect and/or may form pools on the top side 18 of the base 12. (See page 13, lines 20-22.) Further, the lip 22 may prevent the drips which have pooled on the top side 18 of the base 12 from flowing beyond the perimeter 14 of the base 12. Moreover, the lip 22 may protect the hand of the user and/or the surroundings of the user from the drips of the frozen treat 11. (See page 14, lines 21-27.)

Still further, independent Claim 8 requires a slit in the base for supporting the stick of the frozen treat in a nonparallel position with respect to the base within the perimeter of the base wherein the slit in the base is located at the center point of the base. As illustrated in FIG. 1, the base 12 may have an opening 32 which may allow for passage of the handle 13 of the frozen treat 11. (See page 11, lines 22-24.) The opening 32 may be formed by a first slit 34 and a second slit 36 which may be perpendicular to the first slit 34. The opening 32 may be formed by a single slit. (See page 11, lines 26-29.)

Moreover, independent Claim 8 requires an opening in the absorbing means wherein the opening extends through the absorbing

means wherein the opening overlaps the slit in the base. As illustrated in FIG. 1, the cover 24 may have an opening 32 which may allow for passage of the handle 13 of the frozen treat 11. (See page 11, lines 22-24.) The opening may allow the handle 13 to pass from the first side 26 of the cover 24 to the bottom side 20 of the base 12. (See page 11, lines 29-32.)

Independent Claim 13 defines a method for collecting drips from a frozen treat mounted on a stick. FIG. 1 illustrates a method for collecting drips from a frozen treat 11 that may be mounted on a stick that may have a handle 13. (See page 9, lines 21-28.) Claim 13 requires the step of providing a base defined by a first perimeter wherein the base has a first center point and the first perimeter is equidistant from the first center point wherein the base has a first side and a second side wherein the second side is positioned opposite to the first side wherein the base is planar wherein the base is made from a material that is rigid. FIG. 1 illustrates the step of providing the base 12 that may have a shape, such as, for example, a square, a rectangle, a circle, an oval, a triangle, a star and/or the like. (See page 10, lines 7-10.) The base 12 may have a perimeter 14. (See page 10, line 10.) The base 12 may have a top side 18 and a bottom side 20 which may be opposite to the top side 18. (See page 10, lines 11-12.) The base 12 may be made from a material, such as, for example, cellulose fiber, plywood, plastic, polyethylene, polyurethane

and/or the like. (See page 10, lines 5-7.)

Further, independent Claim 13 requires the step of providing a cover defined by a second perimeter wherein the cover has a second center point and the second perimeter is equidistant from the second center point wherein the cover has a first side and a second side wherein the second side is positioned opposite to the first side wherein the second perimeter is less than the first perimeter and further wherein the cover is an absorbent material. FIG. 1 illustrates the step of providing a cover 24 attached to the base 12. (See page 10, line 26.) The cover 24 may have a first side 26 and a second side 28 which may be opposite to the first side 26. (See page 10, lines 27-28.) The cover 24 may have a perimeter 30 (See page 10, lines 27-28.) The second side 28 of the cover 24 may cover the top side 18 of the base 12. (See page 11, lines 3-4.) The cover 24 may be placed over the top side 18 of the base 12. (See page 11, lines 4-5.) The cover 24 may have the same shape and/or a similar shape of the base 12. (See page 11, lines 13-14.) The cover 24 may be a pad, such as, for example, a paper napkin, a coffee filter and/or a paper towel. (See page 10, lines 29-30.) Further, the cover 24 may be made from an absorbent material, such as, for example, a cotton fiber, a wood pulp fiber, a cellulose fiber, a polypropylene and/or the like. (See page 10, lines 30-33.) The perimeter 30 of the cover 24 may be less than the perimeter 14 of the base 12. (See page 11, lines 9-10.) When

the second side 28 of the cover 24 is attached to the top side 18 of the base 12, the perimeter 30 of the cover 24 may be located within the perimeter 14 and the lip 22 of the base. (See page 11, lines 10-13.)

Still further, independent Claim 13 requires the step of providing a lip on the first perimeter wherein the lip is perpendicular to the base. FIG. 1 illustrates the step of providing a lip 22 on the perimeter 14 of the base 12. (See page 10, lines 12-13.) The lip 22 may extend outward with respect to the top side 18 of the base 12. (See page 10, lines 14-15.)

Still further, independent Claim 13 requires the step of connecting the second side of the cover to the first side of the base wherein the perimeter of the cover is adjacent to the lip on the base wherein the lip on the base extends to a point above the first side of the cover. When the second side 28 of the cover 24 is attached to the top side 18 of the base 12, the perimeter 30 of the cover 24 may be located within the perimeter 14 and the lip 22 of the base. (See page 11, lines 10-13.) The drips may collect and/or may form pools on the top side 18 of the base 12. (See page 13, lines 20-22.) Further, the lip 22 may prevent the drips which have pooled on the top side 18 of the base 12 from flowing beyond the perimeter 14 of the base 12. Moreover, the lip 22 may protect the hand of the user and/or the surroundings of the user from the drips of the frozen treat 11. (See page 14, lines 21-27.)

Moreover, independent Claim 13 requires the step of providing an opening through the cover and the base wherein the opening extends from the first side of the cover to the second side of the base wherein the opening is located at the first center point and the second center point. FIG. 1 illustrates the step of providing an opening 32 through the base 12 and the cover 24 which may allow for passage of the handle 13 of the frozen treat 11. (See page 11, lines 22-24.) The opening 32 may allow the handle 13 to pass from the first side 26 of the cover 24 to the bottom side 20 of the base 12. (See page 11, lines 29-32.)

#### **VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

1. Do Claims 1-20 contain new matter under 35 U.S.C. §112, first paragraph, that is not supported by the specification as originally filed?

2. Would Claims 1-3, 8, 13, 17 and 18 have been obvious under 35 U.S.C. §103(a) to one having ordinary skill in the art at the time of Appellant's invention over *Ackalusky* (U.S. Patent No. 2,803,550) in view of *Taylor* (U.S. Patent No. 2,735,778) or vice versa, i.e., *Taylor* in view of *Ackalusky*, both further in view of *Perkins* (U.S. Patent Publication No. 2003/0087011), *Pagnini* (U.S. Patent No. 3,306,512), *Blant* (Great Britain Patent No. 2,293,751), *Rizzuto* (U.S. Patent No. 4,938,411), *Oshio* (U.S. Patent Publication No. 2002/0029697), *Suzuya Shokuhin* (Japanese Patent No. 11-137179) and *Smith* (U.S. Patent No. 5,770,250), essentially for the reasons

fully and clearly detailed in the Non-Final Office Action mailed December 5, 2006, further in view of *Goodwin* (U.S. Patent No. 4,756,939), *Miller* (U.S. Patent No. 4,321,997), *Rhodes et al.* (U.S. Patent No. 4,940,621) and *Hansen et al.* (U.S. Patent No. 4,865,855)? See the Non-Final Office Action mailed December 5, 2006 attached as Exhibit B of the Evidence Appendix. See *Ackalusky, Taylor, Perkins, Pagnini, Blant, Rizzuto, Oshio, Suzuya Shokuhin, Smith, Goodwin, Miller, Rhodes et al.* and *Hansen et al.* attached as Exhibits C, D, E, F, G, H, I, J, K, L, M, N, and O, respectively, of the Evidence Appendix.

3. Would Claims 4-7, 9-12, 14-16, 19 and 20 have been obvious under 35 U.S.C. §103(a) to one having ordinary skill in the art at the time of Appellant's invention in view of *Ackalusky, Taylor, Perkins, Pagnini, Blant, Rizzuto, Oshio, Suzuya Shokuhin, Smith, Goodwin, Miller, Rhodes et al.*, and *Hansen et al.* further in view of *Huffer et al.* (U.S. Patent No. 6, 457,585), *Penick et al.* (U.S. Patent No. 4,336,664), *Freedman et al.* (U.S. Patent No. 2,585,924), *Lipper* (U.S. Patent No. 6,814,234), *Moravick et al.* (U.S. Patent No. 3,704,892), *Shin* (U.S. Patent No. 4,648,548), *Knoerzer et al.* (U.S. Patent No. 6,746,743), *Gottschalk* (U.S. Patent No. 3,835,564), *Goldstein* (U.S. Patent No. 3,100,642), *Witkowski et al.* (U.S. Patent No. 5,676,401), *McClung et al.* (U.S. Patent No. 6,755,711) and *Bellet* (U.S. Patent No. 2,711,541)? See *Huffer et al.*, *Penick et al.*, *Freedman et al.*, *Lipper*, *Moravick et al.*, *Shin*,

*Knoerzer et al., Gottschalk, Goldstein, Witkowski et al., McClung et al. and Bellet* attached as Exhibits P, Q, R, S, T, U, V, W, X, Y, Z and AA, respectively, of the Evidence Appendix.

## **VII. ARGUMENT**

### **A. THE REJECTION OF CLAIMS 1-20 UNDER 35 U.S.C. §112, FIRST PARAGRAPH**

Claims 1-20 stand rejected under 35 U.S.C. §112, first paragraph, for containing new matter not supported by the specification as originally filed.

In the Final Rejection, the Examiner stated:

The recitations, in Claims 1, 8 and 13, that the bottom (layer of the base) or base is "rigid", appears to be new matter, not supported by the specification. Also, the recitations, in Claims 1, 8 and 13, that the lip extends above the top layer or the absorbing means, also appears to be new matter, not supported by the specification as originally filed.

(See Final Rejection, Page 2 of Exhibit A of the Supplemental Appendix.)

### **B. CLAIMS 1, 8 AND 13 DO NOT CONTAIN NEW MATTER AND ARE SUPPORTED BY THE SPECIFICATION AS ORIGINALLY FILED**

With respect to the rejection of independent Claims 1, 8 and 13 under 35 U.S.C. §112, first paragraph, Appellant asserts that independent Claims 1, 8 and 13 do not contain new matter and are supported by the specification as originally filed for the reasons that follow.

The Examiner alleged that Appellant's recitations in independent Claims 1, 8 and 13 that the bottom (layer of the base)

or base is "rigid" are new matter. Further, the Examiner alleged that Appellant's recitations in independent Claims 1, 8 and 13 that the lip extends above the top layer or the absorbing means are new matter. Appellant respectfully submits that the specification as originally filed clearly enables a person skilled in the art at the time of Appellant's invention to which it pertains, or with which it is most nearly connected, to make and use the invention claimed in independent Claims 1, 8 and 13.

Independent Claim 1 requires a base defined by a perimeter wherein the base has a top layer covering a bottom layer. Further, independent Claim 1 requires that the bottom layer is made from a material that is rigid. Moreover, independent Claim 1 requires a lip integrally formed on the perimeter of the base wherein the lip extends to a point above the top layer.

Independent Claim 8 requires a base defined by a perimeter wherein the base is made from a material that is rigid. Further, independent Claim 8 requires a lip on the perimeter of the base and an absorbing means covering the top side of the base. Moreover, independent Claim 8 requires that the lip extends to a point above the absorbing means.

Independent Claim 13 requires that step of providing a base defined by a first perimeter wherein the base is made from a material that is rigid. Further, independent Claim 13 requires the step of providing a cover and a lip on the base wherein the lip



extends to a point above the first side of the cover.

FIG. 1 clearly illustrates that the base 12 has a lip 22 on the perimeter 14 of the base 12 that extends to a point above the top layer. (See page 10, lines 12-13.) The base 12 may be made from a material, such as, for example, cellulose fiber, plywood, plastic, polyethylene, polyurethane and/or the like. (See page 10, lines 5-7). Moreover, the drips may collect and/or may form pools on the top side 18 of the base 12. (See page 13, lines 20-22). Further, the lip 22 may prevent the drips which have pooled on the top side 18 of the base 12 from flowing beyond the perimeter 14 of the base 12.

Appellant submits that a common dictionary definition of "rigid" is "not flexible or pliant; stiff." (See Answer.com definition of "rigid" attached hereto as Exhibit BB of the Evidence Appendix.) Appellant submits that any of cellulose fiber, plywood, plastic, polyethylene, and/or polyurethane are a "rigid" material because any may be formed as not flexible or pliant and/or as stiff. Therefore, the specification as originally filed enables a person skilled in the art at the time of Appellant's invention to make and use the base from a "rigid" material, such as, for example, cellulose fiber, plywood, plastic, polyethylene, polyurethane and/or the like as required by independent Claims 1, 8 and 13. Moreover, Appellant submits that for drips to collect and/or form pools on the top side of the base and/or for the lip to

prevent the drips which have pooled on the top side of the base from flowing beyond the perimeter of the base, the lip must extend to a point above the top layer or the absorbing means. Appellant respectfully submits that the collection and pooling described in the specification as originally filed enabled a person skilled in the art at the time of Appellant's invention to make and use the invention claimed in independent Claims 1, 8 and 13.

In view of the foregoing, since independent Claims 1, 8 and 13 do not contain new matter and are supported by the specification as originally filed, the rejection of Claims 1-20 under 35 U.S.C. §112, first paragraph, is improper and should be reversed.

**C. THE CITED REFERENCES AND THE  
REJECTIONS OF CLAIMS 1-3, 8, 13, 17 AND 18  
UNDER 35 U.S.C. §103(a)**

Claims 1-3, 8, 13, 17 and 18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Ackalusky* in view of *Taylor* or vice versa, i.e., *Taylor* in view of *Ackalusky*, both further in view of *Perkins*, *Pagnini*, *Blant*, *Rizzuto*, *Oshio*, *Suzuya Shokuhin* and *Smith*, further in view of *Goodwin*, *Miller*, *Rhodes et al.* and *Hansen et al.*

In the Final Rejection, the Examiner stated:

In Regard to Claim 1, *Ackalusky* discloses it was well established in the art to provide an apparatus for collecting drips from a frozen treat, the apparatus comprising a base defined by a perimeter wherein the base has a center point and the perimeter is equidistant from the center point (*Ackalusky* disclosing square or round bases - col. 2, para. 4) and wherein the base has a top

layer (24) covering a bottom layer (18) wherein the base is planar and the bottom layer is made from a material that is substantially rigid in that it is self-supporting and is made of some of the same materials disclosed by Applicant (e.g., plastic and cardboard, molded wood pulp, etc.); and wherein the top layer is an absorbent material and the bottom layer extends to a point outside the outer edge of the top layer without overlapping the top layer; said apparatus further comprising a lip (14) integrally formed on the perimeter of the base (actually, the bottom layer) wherein the lip extends to a point above the top layer and wherein the lip is perpendicular to the base, and a passage at the center point of the base, wherein the passage forms an opening through the top layer of the base and the bottom layer of the base. *Taylor, Pagnini, Blant, Rizzuto, Oshio, Suzuya Shokuhin* and *Smith* are relied on as further evidence that it was notoriously conventional to provide anti-drip devices, including ones with upstanding lips like *Ackalusky* and Applicant's, which lips or upstanding walls help to retain the drippings (which is, of course, Applicant's reason for providing upstanding walls). Claim 1 arguably differs from *Ackalusky* in the recitation that the outer edge of the top layer is "adjacent" to the lip (i.e., how close is "adjacent?"). *Ackalusky* does not appear to disclose the extent of the top absorbing layer, other than to show it in the figures. *Ackalusky* provides the top absorbing layer for the reason Applicant employs the layer and that is to absorb the drippings. Therefore, since *Ackalusky* is employing the top layer for its art recognized and Applicant's intended function, the extent of the top layer, or its dimensions, if you will, is seen to have been an obvious matter of degree and an obvious result effective variable, routinely determinable, and an obvious optimization at best, based on such variables as the degree of absorbency of the material (which is a function of the absorbent properties of the material itself, its thickness, etc.) In any case, *Taylor* can be relied on as evidence to show it was well known to extend the absorbent material substantially over the lower support layer of a drip guard and *Goodwin, Miller, Rhodes et al.* and *Hansen et al.* disclose it was well established to have a moisture absorbent top layer extend to adjacent the lip or upturned walls of a bottom layer or tray structure (which is what the claims recite). To modify *Ackalusky* and extend the top absorbent layer adjacent to the lip (or upturned wall) of the base would therefore have been obvious for the reasons given above. *Goodwin,*

*Miller, Rhodes et al.* and *Hansen et al.* are all analogous art since they are all directed to the same generic problem that *Ackalusky* and Applicant are concerned with; i.e., catching and retaining drippings in an enclosure. Claims 2, 3, 8, 13, 17 and 18 are rejected for the reasons given both above and in the last Office Action.

(See Final Rejection, Pages 2-4 of Exhibit A of the Supplemental Appendix.)

**D. CLAIMS 1-3, 8, 13, 17 AND 18 WOULD NOT HAVE BEEN  
OBVIOUS TO ONE HAVING ORDINARY SKILL IN THE ART  
AT THE TIME OF APPELLANT'S INVENTION OVER ACKALUSKY  
IN VIEW OF TAYLOR OR VICE VERSA, BOTH FURTHER  
IN VIEW OF PERKINS, PAGNINI, BLANT, RIZZUTO,  
OSHIO, SUZUYA SHOKUHHN AND SMITH, FURTHER IN VIEW  
OF GOODWIN, MILLER, RHODES ET AL. AND HANSEN ET AL.**

With respect to the rejection of Claims 1-3, 8, 13, 17 and 18 under 35 U.S.C. §103(a) as being unpatentable over *Ackalusky* in view of *Taylor* or vice versa, i.e., *Taylor* in view of *Ackalusky*, both further in view of *Perkins, Pagnini, Blant, Rizzuto, Oshio, Suzuya Shokuhin* and *Smith*, further in view of *Goodwin, Miller, Rhodes et al.* and *Hansen et al.*, Appellant respectfully submits that Claims 1-3, 8, 13, 17 and 18 distinctly define the present invention from *Ackalusky, Taylor, Perkins, Pagnini, Blant, Rizzuto, Oshio, Suzuya Shokuhin, Smith, Goodwin, Miller, Rhodes et al.* and *Hansen et al.* for the reasons that follow.

Independent Claim 1 requires a bottom layer that is made from a material that is rigid. Further, independent Claim 1 requires a lip on the base that extends to a point above the top layer. Still further, independent Claim 1 requires that the bottom layer extends to a point outside of the outer edge of the top layer without

overlapping the absorbing means. Moreover, independent Claim 1 requires that the outer edge of the top layer is adjacent to the lip.

Independent Claim 8 requires a base that is made of a material that is rigid. Still further, independent Claim 8 requires that the base extends to a point outside of the outer edge of the absorbing means without overlapping the absorbing means. Still further, Claim 8 requires that the lip extends to a point above the absorbing means. Moreover, independent Claim 8 requires that the outer edge of the absorbing means is adjacent to the lip.

Independent Claim 13, as amended, requires that the base is made from a material that is rigid. Still further, independent Claim 13 requires that the perimeter of the cover is less than the perimeter of the base. Still further, independent Claim 13 requires that the perimeter of the cover is adjacent to the lip on the base. Moreover, Claim 13 requires that the lip extends to a point above the first side of the cover.

*Ackalusky* merely teaches an apparatus containing a vinyl resin or polyethylene open-top preshaped container guard with a resilient sponge rubber sealing block secured about an opening in the guard. Further, the sealing block does not extend to the lip of the container guard.

*Taylor* merely teaches a shield disposed against the base of a frozen confection that has a passage through which the handle

extends. Further, the moisture-absorbing material 9 resides on a foldable base 6 (See *Taylor*, FIG. 1 and col. 2, lines 44-48.), in contrast to the rigid base of the present invention. Still further, the moisture-absorbing material extends to the edge of the base, and the moisture-absorbing material and the base share the same perimeter (See *Taylor*, FIG. 1.), in contrast to the base that extends to a point outside of the outer edge of the absorbing means and has a larger perimeter than the perimeter of the absorbing means as required by the claims of the present invention. Moreover, the base has a lateral portion connected to the edge of the base that extends downwardly in a direction away from the body lengthwise of the handle.

*Perkins* merely teaches a frozen confectionery accessory 10 made from a flexible plastic or rubber cup 12 having a lip capturing cavity 18. The accessory has a reinforced slot for stick insertion 14, and the walls of the cup 12 extend in a non-perpendicular fashion from the bottom of the cup. (See *Perkins*, FIGS. 1-4 and 6 and col. 2, para. 12.)

*Pagnini* merely teaches a shallow saucer-like tray which is applicable and removable and which is provided at its center with an opening through the tapering body portion. (See *Pagnini*, FIGS. 1-3 and col. 1, lines 59-62.)

*Blant* merely teaches a drip tray 10 having a flat plate portion 12 that extends radially outward from a stick-engaging

aperture 14 which allows passage of a lollipop stick or the like. (See *Blant*, FIGS. 1-2 and page 3, lines 4-7.)

*Rizzuto* merely teaches a drip catching device 10 having a substantially planar member 12 which can be formed of a liquid absorbing material, such as webbed paper. (See *Rizzuto*, FIGS. 1-3 and col. 2, lines 20-23.)

*Oshio* merely teaches an apparatus to catch drippings from an ice cream bar or treat that has an upper cup portion 2 that may be removably mounted on top of the handle portion 4. The handle 4 is tapered to ensure that when the upper cup portion 2 is placed on top of and over the handle 4, the upper cup portion 2 would move down until a certain point and would then removably rest on the handle 4. (See *Oshio*, FIG. 3 and page 2, para. 21.)

*Suzuya Shokuhin* merely teaches an apparatus having a cup with a hole for receiving an ice cream cone. The apparatus may be round or square in shape. (See *Oshio*, FIGS. 1-6.)

*Smith* merely teaches a drip-absorbing article for use while consuming frozen treats. A slit 22 in the sponge 20 is aligned with a slit 12 in the cover 10. The slits 12 and 22 extend through the cover 10 and the sponge 20, respectively, and are adapted to receive a portion of a stick handle 30 which is embedded in a frozen treat. (See *Smith*, FIG. 1 and col. 3, lines 22-32.)

*Goodwin* merely teaches an absorbent pad adapted for placement in a package beneath a food product having a tendency to exude

fluid. *Miller* merely teaches a receptacle for containing and displaying food products which tend to exude juices or liquids, and which comprises a supporting member, such as a tray or bag, and an absorbent pad associated therewith. *Rhodes et al.* merely teach an absorbent pad for meat and poultry products and the like and a method for constructing the same. *Hansen et al.* merely teaches an absorbent food pad which absorbs exudate from food products in a package and inhibits the propagation of food-borne pathogens.

Nowhere do *Ackalusky, Taylor, Perkins, Pagnini, Blant, Rizzuto, Oshio, Suzuya Shokuhin, Smith, Goodwin, Miller, Rhodes et al.* or *Hansen et al.*, taken singly or in combination, teach or suggest that the outer edge of the top layer is adjacent to the lip, that the outer edge of the absorbing means is adjacent to the lip or that the perimeter of the cover is adjacent to the lip on the base as required by independent Claims 1, 8 and 13, respectively. The Patent Office admits that *Ackalusky* does not disclose an extent of the perimeter of the top absorbing layer, other than to show it in the figures. On the contrary, *Ackalusky* teaches that the rectangular block of sponge rubber 24 surrounds the opening 20 around the stick 28 (and is not adjacent to the walls 12 of the guard 14) to prevent running of the drippings through the opening 20. (See *Ackalusky*, FIGS. 2 and 3 and col. 2, lines 19-21.)

Further, nowhere do *Ackalusky, Taylor, Perkins, Pagnini,*



*Blant, Rizzuto, Oshio, Suzuya Shokuhin, Smith, Goodwin, Miller, Rhodes et al. or Hansen et al.*, taken singly or in combination, teach or suggest a bottom layer or a base that is made from a material that is rigid, as required by independent Claims 1, 8 and 13. Further, nowhere do *Ackalusky, Taylor, Perkins, Pagnini, Blant, Rizzuto, Oshio, Suzuya Shokuhin, Smith, Goodwin, Miller, Rhodes et al. or Hansen et al.*, taken singly or in combination, teach or suggest a lip on the base that extends to a point above the top layer, the absorbing means or the first side of the cover, as required by independent Claims 1, 8 and 13, respectively. Still further, nowhere do *Ackalusky, Taylor, Perkins, Pagnini, Blant, Rizzuto, Oshio, Suzuya Shokuhin, Smith, Goodwin, Miller, Rhodes et al. or Hansen et al.*, taken singly or in combination, teach or suggest that the bottom layer or the base extends to a point outside of the outer edge of the top layer without overlapping the absorbing means or that the second perimeter is less than the first perimeter as required by independent Claims 1, 8 and 13, respectively.

Moreover, a person of ordinary skill in the art would never have been motivated to combine *Ackalusky, Taylor, Perkins, Pagnini, Blant, Rizzuto, Oshio, Suzuya Shokuhin, Smith, Goodwin, Miller, Rhodes et al. or Hansen et al.* in the manner suggested by the Patent Office in formulating the rejection under 35 U.S.C. §103(a). It is submitted that the question under §103 is whether the

totality of the art would collectively suggest the claimed invention to one of ordinary skill in this art. In re Simon, 461 F.2d 1387, 174 USPQ 114 (CCPA 1972).

That elements, even distinguishing elements, are disclosed in the art is alone insufficient. It is common to find elements somewhere in the art. Moreover, most if not all elements perform their ordained and expected functions. The test is whether the invention as a whole, in light of all of the teachings of the references in their entirety, would have been obvious to one of ordinary skill in the art at the time the invention was made. Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983).

With the analysis of the deficiencies of *Ackalusky, Taylor, Perkins, Pagnini, Blant, Rizzuto, Oshio, Suzuya Shokuhin, Smith, Goodwin, Miller, Rhodes et al.* and *Hansen et al.*, taken singly or in combination, as enumerated above, no reason or suggestion in the evidence of record exists why one of ordinary skill in the art would have been led to combine *Ackalusky, Taylor, Perkins, Pagnini, Blant, Rizzuto, Oshio, Suzuya Shokuhin, Smith, Goodwin, Miller, Rhodes et al.* and/or *Hansen et al.* to produce the claimed invention. Therefore, *prima facie* obviousness has not been established by the Patent Office as required under 35 U.S.C. §103. Therefore, Appellant submits that the rejection of independent Claims 1, 8 and 13 under 35 U.S.C. §103(a) is improper and should

be reversed.

Dependent Claim 2 depends from independent Claim 1 and further requires that the bottom layer is plastic. On page 3 of the Office Action dated December 5, 2006, the Patent Office admits that Claim 2 differs from *Taylor* in the recitation that the base is plastic whereas *Taylor* discloses a nonabsorbent paper material. *Perkins*, *Pagnini*, *Blant*, *Rizzuto*, *Oshio*, *Suzuya Shokuhin* and *Smith* all merely teach drip trays that are made of some type of plastic. *Goodwin*, *Miller*, *Rhodes et al.* and *Hansen et al.* All merely teach absorbent food pads that may be made from plastic. Nowhere do *Ackalusky* and/or *Taylor* in view of *Perkins*, *Pagnini*, *Blant*, *Rizzuto*, *Oshio*, *Suzuya Shokuhin*, *Smith*, *Goodwin*, *Miller*, *Rhodes et al.* and/or *Hansen et al.*, teach or suggest the apparatus of independent Claim 1 from which Claim 2 depends. Therefore, *Ackalusky*, *Taylor*, *Perkins*, *Pagnini*, *Blant*, *Rizzuto*, *Oshio*, *Suzuya Shokuhin*, *Smith*, *Goodwin*, *Miller*, *Rhodes et al.* and *Hansen et al.*, taken singly or in combination, fail to teach or suggest the apparatus of independent Claim 1 wherein the bottom layer is plastic. The differences between Claim 2 and the teaching of *Ackalusky*, *Taylor*, *Perkins*, *Pagnini*, *Blant*, *Rizzuto*, *Oshio*, *Suzuya Shokuhin*, *Smith*, *Goodwin*, *Miller*, *Rhodes et al.* and *Hansen et al.* are such that the subject matter as a whole would not have been obvious at the time the invention was made to a person of ordinary skill in the art.

With the analysis of the deficiencies of *Ackalusky, Taylor, Perkins, Pagnini, Blant, Rizzuto, Oshio, Suzuya Shokuhin, Smith, Goodwin, Miller, Rhodes et al.* and *Hansen et al.*, as enumerated above, no reason or suggestion in the evidence of record exists why one of ordinary skill in the art would have been led to combine *Ackalusky, Taylor, Perkins, Pagnini, Blant, Rizzuto, Oshio, Suzuya Shokuhin, Smith, Goodwin, Miller, Rhodes et al.* and/or *Hansen et al.*, to produce the claimed invention. *Prima facie* obviousness has not been established by the Patent Office as required under 35 U.S.C. §103. Dependent Claim 2 is further believed allowable over the references of record for the same reasons set forth above with respect to independent Claim 1 since it sets forth additional novel elements of Appellant's apparatus. Therefore, Appellant submits that the rejection of dependent Claim 2 under 35 U.S.C. §103(a) is improper and should be reversed.

Dependent Claim 3 depends from independent Claim 1 and further requires that the absorbent material is paper. Nowhere do *Ackalusky, Taylor, Perkins, Pagnini, Blant, Rizzuto, Oshio, Suzuya Shokuhin, Smith, Goodwin, Miller, Rhodes et al.* or *Hansen et al.*, taken singly or in combination, teach or suggest the apparatus of independent Claim 1 wherein the absorbent material is paper. Therefore, *Ackalusky, Taylor, Perkins, Pagnini, Blant, Rizzuto, Oshio, Suzuya Shokuhin, Smith, Goodwin, Miller, Rhodes et al.* and *Hansen et al.*, taken singly or in combination, fail to teach or

suggest the apparatus of independent Claim 1 wherein the absorbent material is paper. The differences between Claim 3 and the teachings of *Ackalusky, Taylor, Perkins, Pagnini, Blant, Rizzuto, Oshio, Suzuya Shokuhin, Smith, Goodwin, Miller, Rhodes et al.* and *Hansen et al.* are such that the subject matter as a whole would not have been obvious at the time the invention was made to a person of ordinary skill in the art.

With the analysis of the deficiencies of *Ackalusky, Taylor, Perkins, Pagnini, Blant, Rizzuto, Oshio, Suzuya Shokuhin, Smith, Goodwin, Miller, Rhodes et al.* and *Hansen et al.*, as enumerated above, no reason or suggestion in the evidence of record exists why one of ordinary skill in the art would have been led to combine *Ackalusky, Taylor, Perkins, Pagnini, Blant, Rizzuto, Oshio, Suzuya Shokuhin, Smith, Goodwin, Miller, Rhodes et al.* and/or *Hansen et al.*, to produce the claimed invention. *Prima facie* obviousness has not been established by the Patent Office as required under 35 U.S.C. §103. Dependent Claim 3 is further believed allowable over the references of record for the same reasons set forth above with respect to independent Claim 1 since it sets forth additional novel elements of Appellant's apparatus. Therefore, Appellant submits that the rejection of dependent Claim 3 under 35 U.S.C. §103(a) is improper and should be reversed.

Dependent Claim 17 depends from independent Claim 13 and further requires the step of laminating the cover. Nowhere do

*Ackalusky, Taylor, Perkins, Pagnini, Blant, Rizzuto, Oshio, Suzuya Shokuhin, Smith, Goodwin, Miller, Rhodes et al. or Hansen et al.,* taken singly or in combination, teach or suggest the step of laminating the cover. Therefore, *Ackalusky, Taylor, Perkins, Pagnini, Blant, Rizzuto, Oshio, Suzuya Shokuhin, Smith, Goodwin, Miller, Rhodes et al. and Hansen et al.,* taken singly or in combination, fail to teach or suggest the step of laminating the cover. The differences between Claim 17 and the teachings of *Ackalusky, Taylor, Perkins, Pagnini, Blant, Rizzuto, Oshio, Suzuya Shokuhin, Smith, Goodwin, Miller, Rhodes et al. and Hansen et al.* are such that the subject matter as a whole would not have been obvious at the time the invention was made to a person of ordinary skill in the art.

With the analysis of the deficiencies of *Ackalusky, Taylor, Perkins, Pagnini, Blant, Rizzuto, Oshio, Suzuya Shokuhin, Smith, Goodwin, Miller, Rhodes et al. and Hansen et al.,* as enumerated above, no reason or suggestion in the evidence of record exists why one of ordinary skill in the art would have been led to combine *Ackalusky, Taylor, Perkins, Pagnini, Blant, Rizzuto, Oshio, Suzuya Shokuhin, Smith, Goodwin, Miller, Rhodes et al. and/or Hansen et al.,* to produce the claimed invention. *Prima facie* obviousness has not been established by the Patent Office as required under 35 U.S.C. §103. Dependent Claim 17 is further believed allowable over the references of record for the same reasons set forth above with

respect to independent Claim 13 since it sets forth additional novel steps of Appellant's method. Therefore, Appellant submits that the rejection of dependent Claim 17 under 35 U.S.C. §103(a) is improper and should be reversed.

Dependent Claim 18 depends from independent Claim 13 and further requires the step of inserting the stick of the frozen treat into the opening of the cover and the base. Nowhere do *Ackalusky, Taylor, Perkins, Pagnini, Blant, Rizzuto, Oshio, Suzuya Shokuhin, Smith, Goodwin, Miller, Rhodes et al.* or *Hansen et al.*, taken singly or in combination, teach or suggest the method of independent Claim 13 having the step of inserting the stick of the frozen treat into the opening of the cover and the base. Therefore, *Ackalusky, Taylor, Perkins, Pagnini, Blant, Rizzuto, Oshio, Suzuya Shokuhin, Smith, Goodwin, Miller, Rhodes et al.* and *Hansen et al.*, taken singly or in combination, fail to teach or suggest the step of inserting the stick of the frozen treat into the opening of the cover and the base. The differences between Claim 18 and the teachings of *Ackalusky, Taylor, Perkins, Pagnini, Blant, Rizzuto, Oshio, Suzuya Shokuhin, Smith, Goodwin, Miller, Rhodes et al.* and *Hansen et al.* are such that the subject matter as a whole would not have been obvious at the time the invention was made to a person of ordinary skill in the art.

With the analysis of the deficiencies of *Ackalusky, Taylor, Perkins, Pagnini, Blant, Rizzuto, Oshio, Suzuya Shokuhin, Smith,*

*Goodwin, Miller, Rhodes et al. and Hansen et al.*, as enumerated above, no reason or suggestion in the evidence of record exists why one of ordinary skill in the art would have been led to combine *Ackalusky, Taylor, Perkins, Pagnini, Blant, Rizzuto, Oshio, Suzuya Shokuhin, Smith, Goodwin, Miller, Rhodes et al. and/or Hansen et al.*, to produce the claimed invention. *Prima facie* obviousness has not been established by the Patent Office as required under 35 U.S.C. §103. Dependent Claim 18 is further believed allowable over the referenced of record for the same reasons set forth above with respect to independent Claim 13 since it sets forth additional novel steps of Appellant's method. Therefore, Appellant submits that the rejection of dependent Claim 18 under 35 U.S.C. §103(a) is improper and should be reversed.

**E. THE CITED REFERENCES AND THE REJECTIONS  
OF CLAIMS 4-7, 9-12, 14-16, 19 AND 20  
UNDER 35 U.S.C. §103(a)**

Claims 4-7, 9-12, 14-16, 19 and 20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Ackalusky, Taylor, Perkins, Pagnini, Blant, Rizzuto, Oshio, Suzuya Shokuhin, Smith, Goodwin, Miller, Rhodes et al.*, and *Hansen et al.* further in view of *Huffer et al., Penick et al., Freedman et al., Lipper, Moravick et al., Shin, Knoerzer et al., Gottschalk, Goldstein, Witkowski et al., McClung et al.* and *Bellet*.

In the Final Rejection, the Examiner stated:

Claims 4-7 differ from the combination in the recitation



that an adhesive sticker, a washable tattoo, a partition in the base or a mark is associated with the base, respectively. As evidenced by *Huffer et al.*, *Penick et al.*, *Freedman et al.*, *Lipper*, *Moravick et al.*, *Shin*, *Knoerzer et al.*, *Gottshalk*, *Goldstein*, *Witkowski et al.*, *McClung et al.* and *Bellet*, it was notoriously conventional to provide an article that is to be associated with a product (such as a package associated with contents) with adhesive stickers, or washable tattoos, or partitions in the article such as the package (to allow for separation of an article of interest) or a mark. To modify the combination and provide these conventional elements for their art recognized an Applicants intended function would therefore have been obvious. Claims 9-12, 14 and 15 are rejected for the reasons given above.

In regards to Claims 9-12, the particular layer that the elements recited (such as the sticker or partition) are attached to, or associated with, is seen to have been an obvious matter of choice. Claims 19 and 20 recite that the cover is removed from the base and the base is used as a disk. The art taken as a whole discloses that the cover can be laminated or the cover element can be positioned on the base (such as in the teaching in *Ackalusky*). Whether one removes the cover and what one does with the base after removal of the cover is seen to have been an obvious matter of choice or design; especially since the art taken as a whole teaches converting articles of one utility such as packages into articles of other utility such as entertainment or amusement devices. Note, too, it was well established to associate drip catching absorbent layers with tray type structures either by bonding or just a loose attachment as is done, for example, with meat trays, as shown e.g., by *Goodwin*, *Miller*, *Rhodes et al.* and *Hansen et al.*

(See Final Rejection, Pages 5-6 of Exhibit A of the Supplemental Appendix.)

**F. CLAIMS 4-7, 9-12, 14-16, 19 AND 20 WOULD NOT  
HAVE BEEN OBVIOUS TO ONE HAVING ORDINARY SKILL  
IN THE ART AT THE TIME OF APPELLANT'S INVENTION  
OVER ACKALUSKY, TAYLOR, PERKINS, PAGNINI, BLANT,  
RIZZUTO, OSHIO, SUZUYA SHOKUHIN, SMITH, GOODWIN,  
MILLER, RHODES ET AL. AND HANSEN ET AL., FURTHER IN  
VIEW OF HUFFER ET AL., PENICK ET AL., FREEMAN ET AL.,  
LIPPER, MORAVICK ET AL., SHIN, KNOERZER ET AL., GOTTSCHALK,  
GOLDSTEIN, WITKOWSKI ET AL., MCCLUNG ET AL. AND BELLET**

Independent Claim 1 requires that the outer edge of the top layer is adjacent to the lip. Still further, independent Claim 1 requires a bottom layer that is made from a material that is rigid. Still further, independent Claim 1 requires a lip on the base that extends to a point above the top layer. Moreover, independent Claim 1 requires that the lip is perpendicular to the base. Dependent Claims 4-7 depend from independent Claim 1.

Independent Claim 8 requires a base that is made from a material that is rigid. Still further, independent Claim 8 requires a lip on the perimeter of the base that extends outward perpendicularly with respect to the top side of the base. Moreover, independent Claim 8 requires that the lip extends to a point above the absorbing means. Dependent Claims 9-12 depend from independent Claim 8.

Independent Claim 13 requires a base that is planar. Further, independent Claim 13 requires that the base is made from a material that is rigid. Still further, independent Claim 13 requires a lip on the perimeter of the base that is perpendicular to the base. Moreover, independent Claim 13 requires that the lip extends to a point above the first side of the cover. Dependent Claims 14-16, 19 and 20 depend from independent Claim 13.

Dependent Claims 4-7 require an adhesive sticker on the base; a washable tattoo on the base; a partition in the base wherein the partition is removed from the base; and a mark printed on the base, respectively. Further, dependent Claims 9-12 require a sticker

attached to the absorbing means; a partition in the absorbing means wherein the partition is separable from the absorbing means; a plurality of perforations partitioning the absorbing means; and a washable tattoo removably attached to the absorbing means, respectively. Still further, dependent Claims 14-16, 19 and 20 further require the steps of perforating the cover to form a partition in the cover wherein the partition is a section of the cover that is separable from the cover; partitioning the base with a plurality of perforations; printing indicia on the base; removing the cover from the base to form a disk; and utilizing the base as a disk wherein the base is separated from the cover, respectively.

Nowhere do Ackalusky, Taylor, Perkins, Pagnini, Blant, Rizzuto, Oshio, Suzuya Shokuhin, Smith, Goodwin, Miller, Rhodes et al., Hansen et al., Huffer et al., Penick et al., Freedman et al., Lipper, Moravick et al., Shin, Knoerzer et al., Gottschalk, Goldstein, Witkowski et al., McClung et al. or Bellet, taken singly or in combination, teach an apparatus, system, or method used when consuming a frozen treat, as required by independent Claims 1, 8 and 13. Huffer et al., Penick et al., Freedman et al., Lipper, Moravick et al., Shin, Knoerzer et al., Gottschalk, Goldstein, Witkowski et al., McClung et al. and/or Bellet disclose either removable items or novelties for games, boxes of food, or the like. On the contrary, Appellant's invention requires an apparatus, system or method used for consuming a frozen treat.

One of ordinary skill in the art would never have been motivated to combine Ackalusky with Taylor, Perkins, Pagnini, Blant, Rizzuto, Oshio, Suzuya Shokuhin, Smith, Goodwin, Miller, Rhodes et al., Hansen et al., Huffer et al., Penick et al., Freedman et al., Lipper, Moravick et al., Shin, Knoerzer et al., Gottschalk, Goldstein, Witkowski et al., McClung et al. or Bellet in the manner suggested by the Patent Office in formulating the rejection of the claims under 35 U.S.C. §103(a). It is submitted that the question under §103(a) is whether the totality of the art would collectively suggest the claimed invention to one of ordinary skill in this art. *In re Simon*, 461 F.2d 1387, 174 USPQ 114 (CCPA 1972).

That elements, even distinguishing elements, are disclosed in the art is alone insufficient. It is common to find elements somewhere in the art. Moreover, most, if not all, elements perform their ordained and expected functions. The test is whether the invention as a whole, in light of the teachings of the references in their entireties, would have been obvious to one of ordinary skill in the art at the time the invention was made. *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983).

It is insufficient that the art disclosed components of Appellant's apparatus and method. A teaching, suggestion, or incentive must exist to make the combination made by Applicant. *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1143, 227 USPQ

543, 551 (Fed. Cir. 1988).

Moreover, a motivation to combine does not exist merely because references are analogous art, as alleged by the Patent Office. The references must expressly or impliedly suggest the claimed invention, or the Patent Office must present a convincing line of reasoning as to why Appellant would have found the claimed invention to have been obvious in light of the teachings of the references. *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985).

With the analysis of the deficiencies of *Ackalusky*, *Taylor*, *Perkins*, *Pagnini*, *Blant*, *Rizzuto*, *Oshio*, *Suzuya Shokuhin*, *Smith*, *Goodwin*, *Miller*, *Rhodes et al.*, *Hansen et al.*, *Huffer et al.*, *Penick et al.*, *Freedman et al.*, *Lipper*, *Moravick et al.*, *Shin*, *Knoerzer et al.*, *Gottschalk*, *Goldstein*, *Witkowski et al.*, *McClung et al.* and *Bellet* in mind, as enumerated above, no reason or suggestion in the evidence of record exists why one of ordinary skill in the art would have been led to combine *Ackalusky*, *Taylor*, *Perkins*, *Pagnini*, *Blant*, *Rizzuto*, *Oshio*, *Suzuya Shokuhin*, *Smith*, *Goodwin*, *Miller*, *Rhodes et al.*, *Hansen et al.*, *Huffer et al.*, *Penick et al.*, *Freedman et al.*, *Lipper*, *Moravick et al.*, *Shin*, *Knoerzer et al.*, *Gottschalk*, *Goldstein*, *Witkowski et al.*, *McClung et al.* and *Bellet* to produce the claimed invention.

Further, Appellant submits that the Patent Office is merely "piece-mealing" references together, providing various teachings

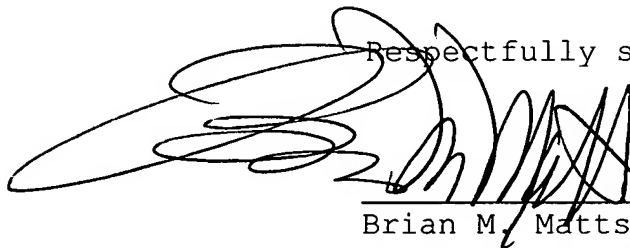
and positively defined limitations of Appellant's apparatus, system and method for collecting drips from a frozen treat. Of course, hindsight reconstruction of Appellant's invention is impermissible. Therefore, *prima facie* obviousness has not been established by the Patent Office as required under 35 U.S.C. §103(a).

In view of the foregoing, Appellant respectfully submits that dependent Claims 4-7, 9-12, 14-16, 19 and 20 distinctly define the present invention from Ackalusky, Taylor, Perkins, Pagnini, Blant, Rizzuto, Oshio, Suzuya Shokuhin, Smith, Goodwin, Miller, Rhodes et al., Hansen et al., Huffer et al., Penick et al., Freedman et al., Lipper, Moravick et al., Shin, Knoerzer et al., Gottschalk, Goldstein, Witkowski et al., McClung et al. and Bellet, taken singly or in combination. Accordingly, the rejection of Claims 4-7, 9-12, 14-16, 19 and 20 under 35 U.S.C. §103(a), is improper and should be reversed.

**CONCLUSION**

For the foregoing reasons, Appellant respectfully submits that the rejection of Claims 1-20 is erroneous as a matter of law and fact and respectfully requests the Board to reverse the rejection.

Respectfully submitted,

A large, stylized handwritten signature in black ink, appearing to read 'Brian M. Mattson', is written over the signature line.

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### VIII. CLAIMS APPENDIX

Claim 1: An apparatus for collecting drips from a frozen treat, the apparatus comprising:

a base defined by a perimeter wherein the base has a center point and the perimeter is equidistant from the center point wherein the base has a top layer covering a bottom layer wherein the base is planar wherein the bottom layer is made from a material that is rigid wherein the top layer is made from an absorbent material wherein the top layer has an outer edge wherein the bottom layer extends to a point outside of the outer edge of the top layer without overlapping the top layer;

a lip integrally formed on the perimeter of the base wherein the lip extends to a point above the top layer wherein the lip is perpendicular to the base wherein the outer edge of the top layer is adjacent to the lip without overlapping the lip; and

a passage at the center point of the base wherein the passage forms an opening through the top layer of the base and the bottom layer of the base.

Claim 2: The apparatus of Claim 1 wherein the bottom layer is plastic.

Claim 3: The apparatus of Claim 1 wherein the absorbent material is paper.

Claim 4: The apparatus of Claim 1 further comprising:

an adhesive sticker on the base.



Claim 5: The apparatus of Claim 1 further comprising:

a washable tattoo on the base.

Claim 6: The apparatus of Claim 1 further comprising:

a partition in the base wherein the partition is removed from the base.

Claim 7: The apparatus of Claim 1 further comprising:

a mark printed on the base.

Claim 8: An apparatus for collecting drips from a frozen treat mounted on a stick, the system comprising:

a base defined by a perimeter wherein the base has a center point and the perimeter is equidistant from the center point wherein the base has a top side and a bottom side positioned opposite to the top side wherein the base is planar wherein the base is made from a material that is rigid;

a lip on the perimeter of the base wherein the lip extends outward perpendicularly with respect to the top side of the base;

an absorbing means covering the top side of the base wherein the absorbing means is located inside the perimeter of the base wherein the lip extends to a point above the absorbing means wherein the absorbing means has an outer edge wherein the outer edge of the absorbing means is adjacent to the lip wherein the base extends to a point outside of the outer edge of the absorbing means without overlapping the absorbing means;

a slit in the base for supporting the stick of the frozen

treat in a nonparallel position with respect to the base within the perimeter of the base wherein the slit in the base is located at the center point of the base; and

an opening in the absorbing means wherein the opening extends through the absorbing means wherein the opening overlaps the slit in the base.

Claim 9: The apparatus of Claim 8 further comprising:

a sticker attached to the absorbing means.

Claim 10: The apparatus of Claim 8 further comprising:

a partition in the absorbing means wherein the partition is separable from the absorbing means.

Claim 11: The apparatus of Claim 8 further comprising:

a plurality of perforations partitioning the absorbing means.

Claim 12: The apparatus of Claim 8 further comprising:

a washable tattoo removably attached to the absorbing means.

Claim 13: A method for collecting drips from a frozen treat mounted on a stick, the method comprising of the steps:

providing a base defined by a first perimeter wherein the base has a first center point and the first perimeter is equidistant from the first center point wherein the base has a first side and a second side wherein the second side is positioned opposite to the first side wherein the base is planar wherein the base is made from a material that is rigid;

providing a cover defined by a second perimeter wherein the

cover has a second center point and the second perimeter is equidistant from the second center point wherein the cover has a first side and a second side wherein the second side is positioned opposite to the first side wherein the second perimeter is less than the first perimeter and further wherein the cover is an absorbent material;

providing a lip on the first perimeter wherein the lip is perpendicular to the base;

connecting the second side of the cover to the first side of the base wherein the perimeter of the cover is adjacent to the lip on the base wherein the lip on the base extends to a point above the first side of the cover; and

providing an opening through the cover and the base wherein the opening extends from the first side of the cover to the second side of the base wherein the opening is located at the first center point and the second center point.

Claim 14: The method of Claim 13 further comprising of the step:

perforating the cover to form a partition in the cover wherein the partition is a section of the cover that is separable from the cover.

Claim 15: The method of Claim 13 further comprising the step of:

partitioning the base with a plurality of perforations.

Claim 16: The method of Claim 13 further comprising the step of:

printing indicia on the base.

Claim 17: The method of Claim 13 further comprising the step of:  
laminating the cover.

Claim 18: The method of Claim 13 further comprising the step of:  
inserting the stick of the frozen treat into the opening of  
the cover and the base.

Claim 19: The method of Claim 13 further comprising the step of:  
removing the cover from the base to form a disk.

Claim 20: The method of Claim 13 further comprising the step of:  
utilizing the base as a disk wherein the base is separated  
from the cover.

## IX. EVIDENCE APPENDIX

EXHIBIT A: Final Rejection dated October 26, 2007

EXHIBIT B: Non-Final Office Action dated December 5, 2006

EXHIBIT C: *Ackalusky* (U.S. Patent No. 2,803,550)

EXHIBIT D: *Taylor* (U.S. Patent No. 2,735,778)

EXHIBIT E: *Perkins* (U.S. Patent Publication No. 2003/0087011)

EXHIBIT F: *Pagnini* (U.S. Patent No. 3,306,512)

EXHIBIT G: *Blant* (Great Britain Patent No. 2,293,751)

EXHIBIT H: *Rizzuto* (U.S. Patent No. 4,938,411)

EXHIBIT I: *Oshio* (U.S. Patent Publication No. 2002/0029697)

EXHIBIT J: *Suzuya Shokuhin* (Japanese Patent No. 11-137179)

EXHIBIT K: *Smith* (U.S. Patent No. 5,770,250)

EXHIBIT L: *Goodwin* (U.S. Patent No. 4,756,939)

EXHIBIT M: *Miller* (U.S. Patent No. 4,321,997)

EXHIBIT N: *Rhodes et al.* (U.S. Patent No. 4,940,621)

EXHIBIT O: *Hansen et al.* (U.S. Patent No. 4,865,855)

EXHIBIT P: *Huffer et al.* (U.S. Patent No. 6, 457,585)

EXHIBIT Q: *Penick et al.* (U.S. Patent No. 4,336,664)

EXHIBIT R: *Freedman et al.* (U.S. Patent No. 2,585,924)

EXHIBIT S: *Lipper* (U.S. Patent No. 6,814,234)

EXHIBIT T: *Moravick et al.* (U.S. Patent No. 3,704,892)

EXHIBIT U: *Shin* (U.S. Patent No. 4,648,548)

EXHIBIT V: *Knoerzer et al.* (U.S. Patent No. 6,746,743)

EXHIBIT W: *Gottschalk* (U.S. Patent No. 3,835,564)

EXHIBIT X: *Goldstein* (U.S. Patent No. 3,100,642)

EXHIBIT Y: *Witkowski et al.* (U.S. Patent No. 5,676,401)

EXHIBIT Z: *McClung et al.* (U.S. Patent No. 6,755,711)

EXHIBIT AA: *Bellet* (U.S. Patent No. 2,711,541)

EXHIBIT BB: Answer.com definition of "rigid"

EXHIBIT A



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
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www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,225	03/12/2004	Valerie Kazich	VAK-P-03-001	8558
29013 7590 10/26/2007 PATENTS+TMS, P.C. 2849 W. ARMITAGE AVE. CHICAGO, IL 60647			EXAMINER WEINSTEIN, STEVEN L	
			ART UNIT 1794	PAPER NUMBER
			MAIL DATE 10/26/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/800,225	<b>Applicant(s)</b> KAZICH, VALERIE	
	<b>Examiner</b> Steven L. Weinstein	<b>Art Unit</b> 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |



Art Unit: 1794

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-20 are rejected under 35USC112, 1<sup>st</sup> para. for containing new matter.

The recitations, in claims 1,8, and 13, that the bottom or base is "rigid", appears to be New Matter, not supported by the specification. Also, the recitations, in claims 1,8, and 13, that the lip extends above the top layer or the absorbing means, also appears to be New Matter, not supported by the specification as originally filed.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3,8,13,17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ackalusk (2,803,550) in view of Taylor (2,735,778) or vice versa, i.e., Taylor in view of Ackalusk, both further in view of Perkins (2003/0087011), Pagnini (3,306,512), Blant (GB2293751), Rizzuto (4,938,411), Oshio (2002/0029697), Suzuya Shokuhin (JP 11-137179), and Smith (5,770,250), essentially for the reasons fully and clearly detailed in the Office action mailed 12/5/06, further in view of Goodwin (4,756,939), Miller (4,321,997), Rhodes et al (4,940,621), and Hansen et al (4,865,855).

In regard to claim 1, Ackalusk discloses it was well established in the art to provide an apparatus for collecting drips from a frozen treat, the apparatus comprising a base defined by a perimeter wherein the base has a center point and the perimeter is

Art Unit: 1794

equidistant from the center point (Ackalusky disclosing square or round bases – col. 2, para. 4), and wherein the base has a top layer (24) covering a bottom layer (18) wherein the base is planar and the bottom layer is made from a material that is substantially rigid in that it is self-supporting and is made of some of the same materials disclosed by applicant (e.g., plastic and cardboard, molded wood pulp, etc.); and wherein the top layer is an absorbent material and the bottom layer extends to a point outside of the outer edge of the top layer without overlapping the top layer; said apparatus further comprising a lip (14) integrally formed on the perimeter of the base (actually, the bottom layer) wherein the lip extends to a point above the top layer and wherein the lip is perpendicular to the base, and a passage at the center point of the base, wherein the passage forms an opening through the top layer of the base and the bottom layer of the base. Taylor, Pagnini (3,306,512), Blant (GB2293751), Rizzuto (4,938,411), Oshio (2002/0029697), Suzuya Shokuhin (JP 11-137179), and Smith (5,770,250) are relied on as further evidence that it was notoriously conventional to provide anti-drip devices, including ones with upstanding lips like Ackalusky and applicant's, which lips or upstanding walls help to retain the drippings (which is, of course, applicant's reason for providing upstanding walls). Claim 1 arguably differs from Ackalusky in the recitation that the outer edge of the top layer is "adjacent" to the lip (i.e., how close is "adjacent"?). Ackalusky does not appear to disclose the extent of the top absorbing layer, other than to show it in the figures. Ackalusky provides the top absorbing layer for the reason applicant employs the layer and that is to absorb the drippings. Therefore, since Ackalusky is employing the top layer for its art recognized

Art Unit: 1794

and applicant's intended function, the extent of the top layer, or its dimensions, if you will, is seen to have been an obvious matter of degree and an obvious result effective variable, routinely determinable, and an obvious optimization at best, based on such variables as the degree of absorbency of the material (which is a function of the absorbent properties of the material itself, its thickness, etc.). In any case, Taylor can be relied on as evidence to show it was a well known to extend the absorbent material substantially over the lower support layer of a drip guard and Goodwin, Miller, Rhodes et al, and Hansen et al disclose it was well established to have a moisture absorbent top layer extend to adjacent the lip or upturned walls of a bottom layer or tray structure (which is what the claims recite). To modify Ackalusky and extend the top absorbent layer adjacent to the lip (or upturned wall) of the base would therefore have been obvious for the reasons given above. Goodwin, Miller, Rhodes et al, and Hansen et al are all analogous art since they are all directed to the same generic problem that Ackalusky and applicant are concerned with; i.e., catching and retaining drippings in an enclosure. Claims 2,3,8,13,17 and 18 are rejected for the reasons given both above and in the last Office action.

Claims 4-7, 9-12,14,15,16,19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable in view of the references applied above, further in view of Huffer et al (6,457,585), Penick et al (4,336,664), Freedman et al (2,585,924), Lipper (6,814,234), Moravick et al (3,704,892), Shin (4,648,548), Knoerzer et al (6,746,743), Gottschalk (3,835,564), Goldstein (3,100,642), Witkowski et al (5,676,401), McClung et al (6,755,711), and Bellet (2,711,541).

Claims 4-7 differ from the combination in the recitation that an adhesive sticker, a washable tattoo, a partition in the base or a mark is associated with the base, respectively. As evidenced by Huffer et al, Penick et al, Freedman et al, Lipper, Moravick et al, Shin, Knoerzer et al, Gottshalk, Goldstein Witkowski et al, McClung et al and Bellet, it was notoriously conventional to provide an article that is to be associated with a product (such as a package associated with contents) with adhesive stickers, or washable tattoos, or partitions in the article such as the package (to allow for separation of an article of interest), or a mark. To modify the combination and provide these conventional elements for their art recognized and applicants intended function would therefore have been obvious. Claims 9-12, 14 and 15 are rejected for the reasons given above. In regard to claims 9,10,11, and 12, the particular layer that the elements recited (such as the sticker or partition) are attached to, or associated with, is seen to have been an obvious matter of choice. Claims 19 and 20 recite that the cover is removed from the base and the base is used as a disk. The art taken as a whole discloses that the cover can be laminated or the cover element can be positioned on the base (such as in the teaching in Ackalusky). Whether one removes the cover and what one does with the base after removal of the cover is seen to have been an obvious matter of choice or design; especially since the art taken as a whole teaches converting articles of one utility such as packages into articles of other utility such as entertainment or amusement devices. Note, too, it was well established to associate drip catching absorbent layers with tray type structures either by bonding or just a loose attachment

Art Unit: 1794

as is done, for example, with meat trays, as shown e.g., by Goodwin, Miller, Rhodes et al, and Hansen et al.

All of applicant's remarks filed 8/15/07 have been fully and carefully considered but are not found to be convincing for the reasons given previously, along with the new ground of rejection set forth above. Substantially all of applicant's remarks are moot in view of the new ground of rejection, which was necessitated by the amendment. In regard to the urging that there is no motivation to combine the elements recited in claims 4-7, 9-12, 14, 15, 16, 19 and 20 with a frozen treat (or presumably a device for use with a frozen treat) this urging is not convincing. Patentability is predicated on what the art taken as a whole teaches. Also, the secondary reference can teach both the "problem", if you will, and the solution. The teaching to combine can be all in the secondary reference. All of the features recited in the claims are conventionally known in the art for applicant's intended function, and the art taken as a whole teaches that these conventional recited features can be associated with conventional diverse articles such as packages for association with various contents. To apply these conventional features to another conventional article would have been unequivocally obvious.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

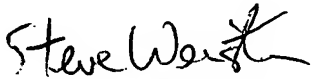
Art Unit: 1794

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven L. Weinstein whose telephone number is 571-272-1410. The examiner can normally be reached on Monday-Friday 7:00 A.M.-2:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
STEVE WEINSTEIN  
PRIMARY EXAMINER 1794  
10/25/07

<b>Notice of References Cited</b>	Application/Control No. 10/800,225	Applicant(s)/Patent Under Reexamination KAZICH, VALERIE	
	Examiner Steven L. Weinstein	Art Unit 1794	Page 1 of 1

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-4,940,621	07-1990	Rhodes et al.	428/137
*	B	US-4,865,855	09-1989	Hansen et al.	426/124
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

**FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

**EXHIBIT B**





# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
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P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,225	03/12/2004	Valerie Kazich	VAK-P-03-001	8558
29013	7590	12/05/2006		
PATENTS+TMS, P.C. 2849 W. ARMITAGE AVE. CHICAGO, IL 60647				
EXAMINER WEINSTEIN, STEVEN L				
ART UNIT		PAPER NUMBER		
1761				

DATE MAILED: 12/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No. \_\_\_\_\_

10/800,225

Applicant(s)

KAZICH, VALERIE

Examiner

Steven L. Weinstein

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/21/04</u> . | 6) <input type="checkbox"/> Other: _____  |

Form PTO 1449

U.S. Department of Commerce  
Patent and Trademark OfficeDocket No.  
VAK-P-03-001Serial No.  
10/800,225LIST OF ART CITED BY APPLICANT  
(Use several sheets if necessary)Applicant:  
KazichFiling Date  
March 12, 2004Group Art Unit  
1761

## U.S. PATENT DOCUMENTS

Examiner's Initials	Document Number	Date	Name	Class	Subclasses	Filing Date If appropriate
SW	811,741	Feb. 6, 1906	Petrie	—	—	
	1,652,789	Dec. 13, 1927	Moore	—	—	
	1,761,703	Jun. 3, 1930	Brimer	—	—	
	2,321,519	Jun. 8, 1943	Rubinoff	—	—	
	2,632,708	Mar. 24, 1953	Sueskind	—	—	
	2,677,615	May 4, 1954	Sueskind	—	—	
	2,735,778	Feb. 21, 1956	Taylor	—	—	
	2,803,550	Aug. 20, 1957	Ackalusky	—	—	
	3,306,512	Feb. 28, 1967	Pagnini	—	—	
	3,459,296	Aug. 5, 1969	Berg	—	—	
	4,938,411	Jul. 3, 1990	Rizzuto	—	—	
	5,515,998	May 14, 1996	Wang	—	—	
	5,770,250	Jun. 23, 1998	Smith	—	—	
SW	6,032,825	Mar. 7, 2000	Guthrie	—	—	

## FOREIGN PATENT DOCUMENTS

	Document Number	Date	Country	Class	Subclass	Translation	
						Yes	No

## OTHER ART (Including Author, Title, Date, Pertinent Pages, Etc.)

Examiner

S. Weinstein

Date Considered

12/4/06

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Ackalusk (2,803,550).

In regard to claim 1, Ackalusk discloses an apparatus for collecting drips from a frozen treat, the apparatus comprising a base defined by a perimeter wherein the base has a top layer (24) covering a bottom layer (18) wherein the base is planar and further wherein the top layer is an absorbent material, said apparatus further comprising a lip (14) on the perimeter of the base wherein the lip extends outward with respect to the top layer of the base, and an opening in the base extending from the top layer to the bottom layer wherein the opening is located inside the perimeter of the base. This is all that claim 1 positively recites. It is noted that claim 1 does not recite that the top layer covers all of the bottom layer. In regard to claim 2, Ackalusk discloses that the bottom layer is plastic. Claim 8 is rejected for the reasons given above.

Claims 1,3,8,13,16,17, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Taylor (2,735,778).

In regard to claim 1, Taylor discloses an apparatus for collecting drips from a frozen treat, the apparatus comprising a base defined by a perimeter wherein the base has a top layer (e.g. 8) covering a bottom layer (e.g. 9), wherein the base is planar and further wherein the top layer is an absorbent material, said apparatus further comprising

a lip (e.g. see e.g. 7) on the perimeter of the base wherein the lip extends outward with respect to the top layer of the base, and an opening in the base extending from the top layer to the bottom layer wherein the opening is located inside the perimeter of the base. In regard to claim 3, Taylor discloses the absorbent material is paper and claim 8 is rejected for the reasons given above in regard to claim 8. In regard to claim 13, Taylor discloses connecting the cover to the base. In regard to claim 17, Taylor discloses laminating the cover.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor in view of Ackalusk, further in view of Perkins (2003/0087011), Pagnini (3,306,512), Blant (GB2293751), Rizzuto (4,938,411), Oshio (2002/0029697), Suzuya Shokuhin (JP 11-137179), and Smith (5,770,250).

Claim 2 differs from Taylor in the recitation that the bottom layer is plastic whereas Taylor discloses a nonabsorbent paper material. Ackalusk can be relied on to teach it was well established to employ plastic, paper or cardboard as a bottom layer in an anti-drip device. To modify Taylor and substitute one conventional material of construction for another conventional material of construction for its art recognized and applicants intended function would therefore have been obvious. Perkins, Pagnini,

Blant, Rizzuto, Oshio, Suzuya Shokuhin and Smith are relied on as further evidence of the conventionality of anti-drip devices.

Claims 4-7, 9-12,14,15,19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor in view of Ackalusky, Perkins (2003/0087011), Pagnini (3,306,512), Blant (GB2293751), Rizzuto (4,938,411), Oshio (2002/0029697), Suzuya Shokuhin (JP 11-137179), and Smith (5,770,250), further in view of Huffer et al (6,457,585), Penick et al (4,336,664), Freedman et al (2,585,924), Lipper (6,814,234), Moravick et al (3,704,892), Shin (4,648,548), Knoerzer et al (6,746,743), Gottschalk (3,835,564), Goldstein (3,100,642), Witkowski et al (5,676,401), McClung et al (6,755,711), and Bellet (2,711,541).

Taylor discloses the two layers as recited above in regard to claim 1. Ackalusky, Perkins (2003/0087011), Pagnini (3,306,512), Blant (GB2293751), Rizzuto (4,938,411), Oshio (2002/0029697), Suzuya Shokuhin (JP 11-137179), and Smith (5,770,250) are relied on as further evidence of the conventionality of anti-drip devices. Claims 4-7 differ from the combination in the recitation that an adhesive sticker, a washable tattoo, a partition in the base or a mark is associated with the base, respectively. As evidenced by Huffer et al, Penick et al, Freedman et al, Lipper, Moravick et al, Shin, Knoerzer et al, Gottshalk, Goldstein Witkowski et al, McClung et al and Bellet, it was notoriously conventional to provide an article that is to be associated with a product (such as a package associated with contents) with adhesive stickers, or washable tattoos, or partitions in the article such as the package (to allow for separation of an article of interest), or a mark. To modify the combination and provide these conventional

Art Unit: 1761

elements for their art recognized and applicants intended function would therefore have been obvious. Claims 9-12, 14 and 15 are rejected for the reasons given above. In regard to claims 9,10,11, and 12, the particular layer that the elements recited (such as the sticker or partition) are attached to, or associated with, is seen to have been an obvious matter of choice. Claims 19 and 20 recite that the cover is removed from the base and the base is used as a disk. The art taken as a whole discloses that the cover can be laminated or the cover element can be positioned on the base (such as in the teaching in Ackaluskys). Whether one removes the cover and what one does with the base after removal of the cover is seen to have been an obvious matter of choice or design; especially since the art taken as a whole teaches converting articles of one utility such as packages into articles of other utility such as entertainment or amusement devices. Note, too, it was well established to associate drip catching absorbent layers with tray type structures either by bonding or just a loose attachment as is done, for example, with meat trays.

The remainder of the references cited on the PTO892 forms are cited as pertinent art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven L. Weinstein whose telephone number is 571-272-1410. The examiner can normally be reached on Monday-Friday 7:00 A.M.-2:30 P.M..

Art Unit: 1761

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Steve Weinstein  
STEVE WEINSTEIN  
PRIMARY EXAMINER 1761  
12/4/06



# **Notice of References Cited**

Application/Control No.

10/800,225

Applicant(s)/Patent Under

Reexamination

KAZICH, VALERIE

Examiner

Steven L. Weinstein

Art Unit

1761

Page 1 of 2

## **U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
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*	B	US-2002/0029697	03-2002	Oshio, Perry	99/426
*	C	US-6,457,585	10-2002	Huffer et al.	206/459.5
*	D	US-4,336,664	06-1982	Penick et al.	40/594
*	E	US-2,585,924	02-1952	FREEDMAN BENJAMIN H; et. al.	273/282.2
*	F	US-6,814,234	11-2004	Lipper, Christopher	206/459.5
*	G	US-3,704,892	12-1972	Moravick et al.	273/157R
*	H	US-4,648,548	03-1987	Shin, Sang J.	229/116.4
*	I	US-6,746,743	06-2004	Knoerzer et al.	428/42.1
*	J	US-3,835,564	09-1974	Gottschalk, Lawrence A.	40/306
*	K	US-3,100,642	08-1963	DANIEL GOLDSTEIN	206/579
*	L	US-5,676,401	10-1997	Witkowski et al.	283/81
*	M	US-5,942,065	08-1999	Biggs et al.	156/90

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*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N	GB 2293751	04-1996	G. BRITAIN	BLANT	—
	O	JP 11-137179	05-1999	JAPAN	SUZUYA SHOKUHI	—
	P					
	Q					
	R					
	S					
	T					

## **NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

<b>Notice of References Cited</b>	Application/Control No. 10/800,225	Applicant(s)/Patent Under Reexamination KAZICH, VALERIE	
	Examiner Steven L. Weinstein	Art Unit 1761	Page 2 of 2

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*	B	US-6,190,226	02-2001	Conconi, Riccardo	446/73
*	C	US-2005/0011778	01-2005	Thomas, Garen Eileen	206/204
*	D	US-2004/0096553	05-2004	Lynch, James E.	426/132
*	E	US-4,321,997	03-1982	Miller, Alan H.	206/204
*	F	US-4,718,594	01-1988	Harazi, Michele	426/132
*	G	US-1,720,190	07-1929	HORNE VERNON A VAN	294/5.5
*	H	US-2,651,130	09-1953	STRATMANN JR LOUIS C	428/7
*	I	US-2,317,067	04-1943	KNAUST HENRY E	229/117.12
*	J	US-5,601,859	02-1997	Penaluna, Joanne	426/5
*	K	US-2,003,895	06-1935	MARTIN WILLIAM S	131/238
*	L	US-6,755,711	06-2004	McClung et al.	446/46
*	M	US-2,711,541	06-1955	BELLETT ETTIE B	2/206

**FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

**EXHIBIT C**

**EXHIBIT D**

**EXHIBIT E**

**EXHIBIT F**

**EXHIBIT G**

# (12) UK Patent Application (19) GB (11) 2 293 751 (13) A

(43) Date of A Publication 10.04.1996

(21) Application No 9420314.8

(22) Date of Filing 08.10.1994

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(51) INT CL<sup>6</sup>

A23G 9/00, B65D 1/34

(52) UK CL (Edition O)

A4A ATS ATS19 ATS2 ATS3  
A2B BAAA B375 B379 B391 B393 B433  
B8D DSX5 D1FX D11 D7P1

(56) Documents Cited

GB 2084848 A GB 0943736 A GB 0898235 A  
US 4350712 A

(58) Field of Search

UK CL (Edition N) A2B BAAA BAAX, A4A AA APA  
APF ATS, A4K KGA, B8D DSX5  
INT CL<sup>6</sup> A23G 9/00, A46B 15/00 17/00 17/08, B65D  
1/34 1/38  
Online database: WPI

(54) Drip tray

(57) A drip tray or crumb catching device is disclosed for food products which are consumed on a stick, such as lollipops or ice creams. The drip tray 10 is attached to an ice cream or lollipop stick under the food product and comprises a flat or concave plate 12 extending radially outward from a stick engagement aperture 14. The stick engagement aperture maintains the drip tray orthogonal to the stick passing therethrough. Alternatively, the tray can be formed integrally with the stick. The tray may be made of plastics or cardboard, have raised lips 16 and 18 to contain the fallen material, be formed in shapes other than circular and can carry advertising.

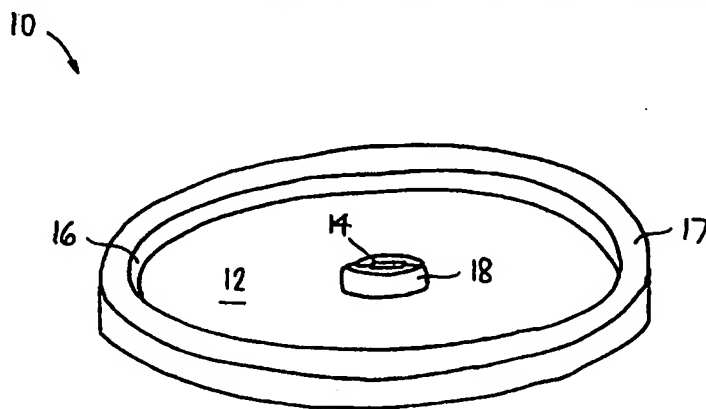


FIGURE 1

GB 2 293 751 A



1 / 2

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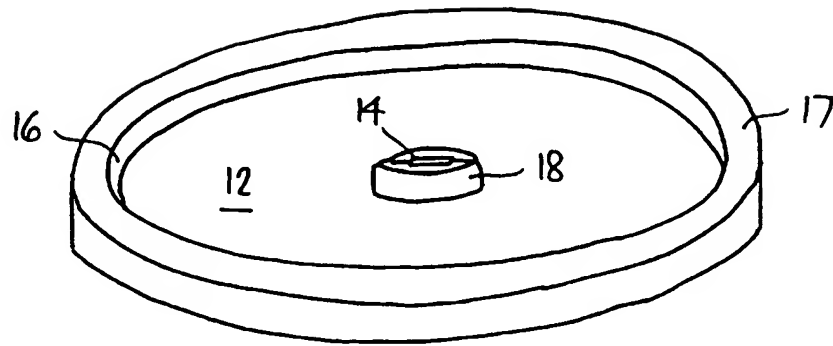


FIGURE 1

10

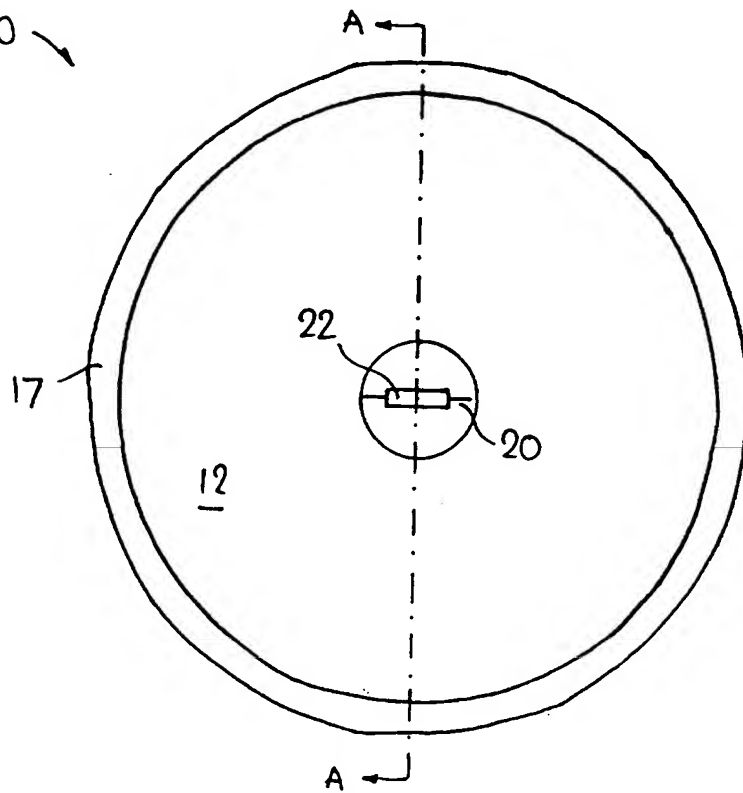


FIGURE 2

FIGURE 3

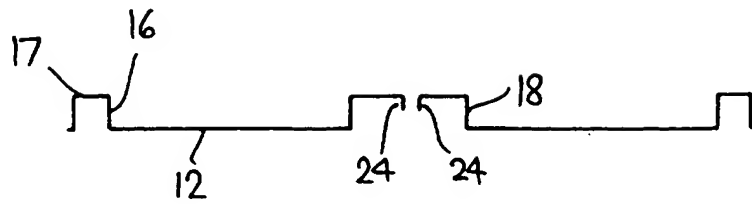


FIGURE 4

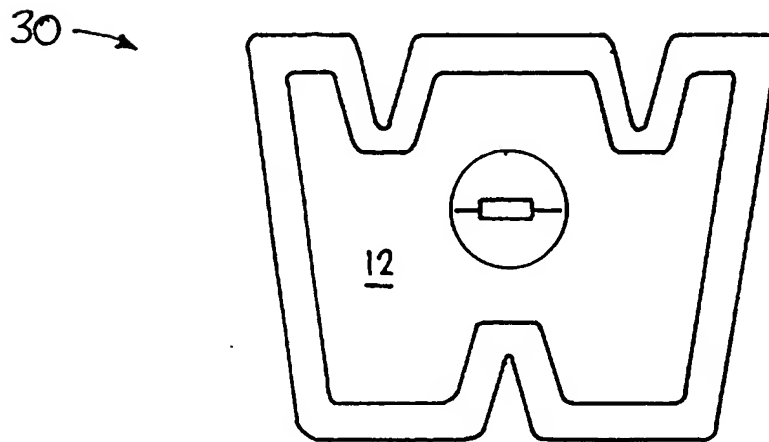
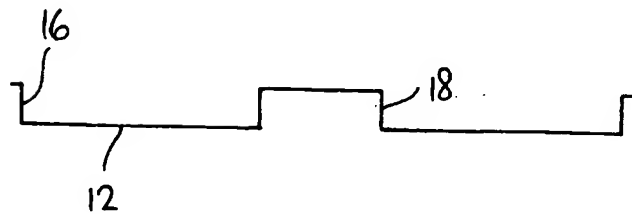


FIGURE 5



DRIP TRAY

The present invention relates to drip trays or crumb catching devices for food products, and in particular for food products which are  
5 sold on, and consumed from a stick.

Typically, foodstuffs such as ice cream, lollipops, toffee apples, candy floss and the like are sold for consumption from a hand-held stick, hereinafter generally referred to as a lollipop stick. In particular, such  
10 items are often sold in theatres, cinemas and the like for consumption on the premises and it is common for persons at such venues to be dressed in smart clothing on which they are particularly keen not to spill items of food. In particular, ice creams and lollipops have a messy habit of melting and dripping off the stick before the commodity has been entirely  
15 consumed. Additionally, the chocolate on products such as chocolate-coated ice creams inevitably fragments when bitten as it is maintained in a brittle state by the temperature of the underlying ice cream, and such fragments inevitably drop off the ice cream at some stage.

20 It would be highly desirable to have some convenient article to protect one's clothing from the spillage from such commodities. Typically, a serviette or handkerchief will only protect the lap of a person who is seated, and is not useful for protecting the upper body, nor is it of use when the user is standing.

25

It is therefore an object of the present invention to provide a protective device which prevents detached foodstuff from the stick-based commodity from falling onto the consumer, and which can be used whether seated or standing and without occupying another hand other than  
30 the one holding the stick. It is a further object to improve general hygiene

by avoiding the necessity of needing to lick messy fingers resulting from detached foodstuff, and also to protect the foodstuff from general accidental handling on the lower part of the stick.

5           In accordance with one embodiment, the present invention provides a drip tray for attachment to a lollipop stick, comprising a plate extending radially outward from a stick engagement aperture, the stick engagement aperture being adapted to maintain the drip tray substantially orthogonal to a stick passing therethrough.

10

          In accordance with a further embodiment, the present invention provides a stick for a stick-based food commodity comprising:

          an upper portion for attachment of a foodstuff;

          a lower portion suitable for use as a hand grip;

15           a central portion extending radially outward in a plane orthogonal to the axis defined by the upper and lower portions.

          Embodiments of the present invention will now be described by way of example with reference to the accompanying drawings in which:

20

          Figure 1 shows a perspective view of a preferred embodiment of a drip tray according to the present invention;

          Figure 2 shows a plan view of the drip tray of figure 1;

25

          Figure 3 shows a view of the cross section of the drip tray of figures 1 and 2, on line A—A;

          Figure 4 shows a plan view of an alternative drip tray incorporating  
30   a shaped periphery; and

Figure 5 shows a cross section similar to that of figure 3 but with modifications to the drip tray.

5 With reference to figure 1 there is shown an exemplary drip tray  
10 according to a presently preferred embodiment of the invention. A flat  
plate portion 12 extends radially outward from a stick-engaging aperture  
14 which allows passage of a lollipop stick or the like therethrough. The  
drip tray 10 is preferably manufactured from a suitably resilient material  
such that the aperture 14 can be made slightly undersize for an intended  
10 stick, and will thereby effect a tight fit with the stick when it is passed  
through. The plate portion 12 forms a surface on which advertising  
slogans or other graphic material may be printed.

The drip tray 10 preferably includes an outer raised lip 16 which  
15 will retain any foodstuff which has fallen off the lollipop or dripped down  
the stick. The raised lip 16 may have any convenient profile which  
provides the upstanding wall as shown, ie. additionally including a  
recurved or folded edge 17 which is provided to enhance the rigidity of  
the tray. An alternative profile is shown in figure 5.

20

The stick-engaging aperture is preferably located radially within an  
inner raised lip 18 which prevents any puddles of spilt liquid which have  
collected on the plate portion 12 from slowly seeping through any gaps  
between the edges of the aperture 14 and the lollipop stick passing  
25 therethrough.

Preferably the entire drip tray 10 may be very cheaply pressed out  
of plastics material or formed from cardboard or the like.

With reference to figures 2 and 3, the stick-engaging aperture 14 preferably comprises a slit 20 cut through the drip tray, and a rectangular section 22 cut out from the drip tray and extending along a part of the length of the slit 20. The rectangular section may be cut away  
5 completely, or the cut portion may be left attached to the tray at the sides to form two downwardly projecting stays 24 as shown in figure 3. These will assist in maintaining the drip tray in orthogonal relation to a stick passed through the aperture. The extension of the slit past the short edges of the rectangular aperture allows for larger lollipop sticks to be passed  
10 through if necessary, and will, in any case, provide four corners which will deflect slightly when the stick is passed through and grip the stick.

Alternatively, the stick-engaging aperture may be any suitable shape necessary to engage a particular type of stick cross-section.

15

The drip tray 10 may be circular in shape as shown in figures 1 to 3. Alternatively, to enhance any advertising slogans which may be printed on plate portion 12, it may be desirable to form a drip tray 30 in geometric, or more irregular shape, perhaps as an initial letter or logo of the advertiser; "W" for example, as shown in figure 4.

20

Although the drip tray 10 has been shown with a flat plate portion 12, it will be understood that a slightly concave upward surface could also be used. Thus, the term "plate" is to be interpreted to include a curved  
25 plate which has a concave upper surface. It will be understood that the outer raised lip could be formed by the concave upward periphery of the plate.

Although not limited to any specific dimensions, a preferred  
30 embodiment of the drip tray is approximately 75mm in diameter, with a

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raised inner lip of approximately 14mm diameter with both inner and outer raised lips being approximately 5mm high. These dimensions give an advertisement area of approximately 30 cm<sup>2</sup>.

- 5           The drip tray is preferably manufactured as a separate item which may be sold or dispensed at the site of purchase of the lollipop. The consumer then unwraps the lollipop and slides the drip tray onto the stick from the bottom end thereof. The drip tray is slid up to the bottom of the foodstuff on the stick, and the stick is then held below the drip tray.

10

The invention may also be realised by forming an integral stick and drip tray.

## CLAIMS

1. A drip tray for attachment to a lollipop stick, comprising a plate  
extending radially outward from a stick engagement aperture, the stick  
5 engagement aperture being adapted to maintain the drip tray substantially  
orthogonal to a stick passing therethrough.
2. A drip tray according to claim 1 wherein the plate is substantially  
flat.  
10
3. A drip tray according to claim 1 wherein the plate is concave  
upwards.
4. A drip tray according to claim 2 or claim 3 further including an  
15 outer raised lip proximal to or at the peripheral edge of the plate.
5. A drip tray according to claim 4 wherein the outer raised lip is  
continuous around the periphery of the plate.
- 20 6. A drip tray according to any one of claims 2 to 5 further including  
an inner raised lip proximal to or at the stick engagement aperture.
7. A drip tray according to claim 6 wherein the inner raised lip is  
continuous around the stick engagement aperture.  
25
8. A drip tray according to any preceding claim wherein the periphery  
of the plate is substantially circular.
9. A drip tray according to any one of claims 1 to 7 wherein the plate  
30 has an irregular shaped periphery.



10. A drip tray according to any preceding claim wherein the stick engagement aperture comprises a slit cut through a central portion of the drip tray, the drip tray being manufactured from suitably resilient material to allow passage of a stick therethrough and to maintain a sufficiently tight grip thereon to support the weight of the drip tray.

11. A drip tray according to claim 10 wherein the slit includes a substantially rectangular hole extending along a part thereof.

12. A combination stick and drip tray for a stick-based food commodity comprising:

an upper portion for attachment of a foodstuff;

a lower portion suitable for use as a hand grip;

a central portion extending radially outward in a plane orthogonal to the axis defined by the upper and lower portions which central portion provides a drip tray for the foodstuff.

13. A drip tray substantially as described herein with reference to the accompanying drawings.

**Patents Act 1977****Examiner's report to the Comptroller under Section 17  
(The Search report)**

Application number

GB 9420314.8

**Relevant Technical Fields**

(i) UK Cl (Ed.N) A2B (BAAA, BAAX) A4A (AA, APA, APF, ATS) A4K (KGA) B8D (DSX5)

(ii) Int Cl (Ed.6) A23G 9/00 A46B 15/00, 17/00, 17/08 B65D 1/34, 1/36

**Databases (see below)**

(i) UK Patent Office collections of GB, EP, WO and US patent specifications.

(ii) ONLINE DATABASE: WPI

Search Examiner

MR N A FRANKLIN

Date of completion of Search  
11 JANUARY 1995Documents considered relevant  
following a search in respect of  
Claims :-  
1 TO 13**Categories of documents**

- X:** Document indicating lack of novelty or of inventive step.      **P:** Document published on or after the declared priority date but before the filing date of the present application.
- Y:** Document indicating lack of inventive step if combined with one or more other documents of the same category.      **E:** Patent document published on or after, but with priority date earlier than, the filing date of the present application.
- A:** Document indicating technological background and/or state of the art.      **&:** Member of the same patent family; corresponding document.

Category	Identity of document and relevant passages		Relevant to claim(s)
X	GB 2084846 A	(M C SICILIANO) note page 1 lines 92 to 101	1, 2, 12
X	GB 943736	(J C L PHILLIPS) note Claim 1 and figures	1, 2, 4, 7, 10, 11
X	GB 898235	(E L COLLIER) note eg. upper portion 22, lower portion 14 and central portion 16 in Figure 4	12
X	US 4350712	(A KOCHARIAN) note entire document	1 to 5, 9, 12

**Databases:** The UK Patent Office database comprises classified collections of GB, EP, WO and US patent specifications as outlined periodically in the Official Journal (Patents). The on-line databases considered for search are also listed periodically in the Official Journal (Patents).

**EXHIBIT H**

**EXHIBIT I**

**EXHIBIT J**

(19)日本国特許庁 (J P)

(12) 公 開 特 許 公 報 (A)

(11)特許出願公開番号

特開平11-137179

(43)公開日 平成11年(1999) 5月25日

(51)Int.Cl.<sup>6</sup>  
A 2 3 G 9/00

識別記号

F I  
A 2 3 G 9/00

審査請求 未請求 請求項の数3 F D (全 5 頁)

(21)出願番号 特願平9-320460

(22)出願日 平成9年(1997)11月6日

(71)出願人 597163773

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東京都台東区台東4-12-1

(72)発明者 奥田文雄

東京都文京区本郷5-15-13

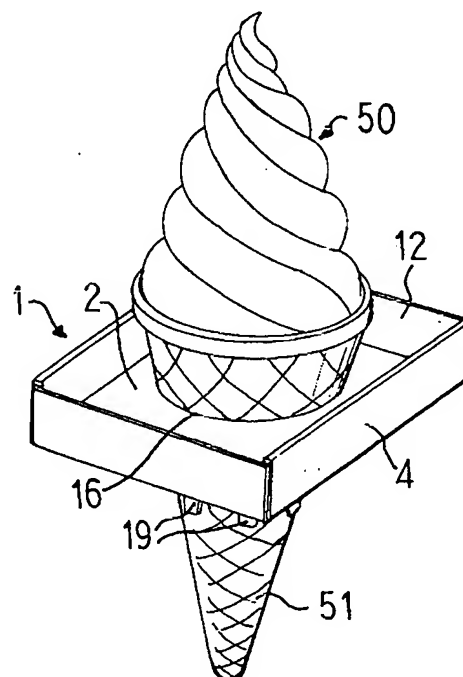
(74)代理人 弁理士 吉澤 弘朗

(54)【発明の名称】 アイスクリーム用コーンカップ保持具

(57)【要約】

【課題】アイスクリームを手にとって食べる時に、アイスクリーム垂液により手指を汚すことはなく、かつ安定感を生じるアイスクリームコーンカップ用保持具を提供する。

【解決手段】扁平状をなす基板の中心部より放射状に切り込み線を複数設けて開口支持片を形成するとともに、前記基板の外周縁に連設される外周辺を該基板の上方向に立ち上げて外周壁を形成する。



**【特許請求の範囲】**

【請求項1】扁平状をなす基板の中心部より放射状に切り込み線を複数設けて開口支持片を形成するとともに、前記基板の外周縁に連設される外周辺を該基板の上方向に立ち上げて外周壁を形成することを特徴とするソフトクリームなどのアイスクリーム用コーンカップ保持具。

【請求項2】請求項1に記載された発明において、前記開口支持片は前記基板の中心部に設けた挿入口と、該挿入口の周縁より同一軸心状に複数の折曲線を蛇腹状に形成するものであることを特徴とするソフトクリームなどのアイスクリーム用コーンカップ保持具。

【請求項3】請求項1及び請求項2に記載された発明において、前記基板は略円形状をなし、前記外周辺においては該基板の外周縁より放射状に複数の折曲線が形成されているものであることを特徴とするソフトクリームなどのアイスクリーム用コーンカップ保持具。

**【発明の詳細な説明】****【0001】**

【発明の属する技術分野】この発明は、ソフトクリームなどのアイスクリームを食する時に用いられるアイスクリーム用コーンカップの保持具に関するものである。

**【0002】**

【従来の技術】ソフトクリームなどのアイスクリームは、コーンカップの上部に露出して盛りつけられ、その下部のコーンカップを手で持って食するのが通常である。しかし冷凍したアイスクリームは、徐々に体温や平温下で溶解するので、溶け出たアイスクリーム垂液がコーンカップより流れ出て、手指を汚す事がしばしばあり問題となっていた。ここで、従来アイスクリーム用コーンカップを改良したものとしては、図7に示すように、コーンカップ61自体を二重構造に成型し、内側コーンカップ63と外側コーンカップ62との間に設けた垂液受用ポケット65に垂液を落下させることで、手指が汚れることを防止せんとするものが知られている（実開昭61-66491号）。

**【0003】**

【発明が解決しようとする課題】しかしながら、前記考案においては以下の問題点が生じていた。すなわち二重構造に成型されたコーンカップはそれ自体が複雑な形状となり、内側コーンカップのみに半流動体であるソフトクリームなどのアイスクリームを盛り付けることは決して容易でなく、特に迅速さが要求される飲食サービス業務においては、実際のとはいえなかった。また、コーンカップ自体を二重構造に成型しようとせんがため、通常よりも複雑な製造工程を要する事になり、そのコストは高くなり、アイスクリームの販売価格との関係からも、本考案が実施される頻度は非常に少なかったといえる。

【0004】ところで、ソフトクリームなどのアイスクリームをコーンカップの上部に盛りつけることは、高さがかさばり、またその重心が上方となることより、通常

円錐状あるいは斜円筒状に形成されたコーンカップのみにより上方のアイスクリームを保持することは極めて不安定となる。特に、ソフトクリームなどのアイスクリームは、手に持って歩き回りながら食するような場合も多く、そのバランスを崩してアイスクリーム全体をひっくり返してしまうようなアクシデントもしばしば生じていた。

【0005】本発明は上記された問題に鑑みてなされたもので、ソフトクリームなどのアイスクリームを食べる時に、溶解したアイスクリーム垂液により手指を汚すことはなく、かつコーンカップを手を持った場合に、より安定感を生じるアイスクリームコーンカップ用保持具を提供する事を目的とする。

**【0006】**

【課題を解決するための手段】上記目的を達成するため請求項1に記載された本発明は、ソフトクリームなどのアイスクリーム用コーンカップ保持具において、扁平状をなす基板の中心部より放射状に切り込み線を複数設けて開口支持片を形成するとともに、前記基板の外周縁に連設される外周辺を該基板の上方向に立ち上げて外周壁を形成することを特徴とするものである。

【0007】かかる発明によれば、アイスクリームをコーンカップに盛り付けた後、コーンカップの下部先端をコーンカップ保持具の基板中心部に差込めば良い。コーンカップの下部先端は通常円錐状あるいは斜円筒状であり、基板中心部において放射状の切り込み線により形成された開口支持片は自然と下方に折り曲げられ、コーンカップの下部先端が自然に挿入されると共に、開口支持片がコーンカップを軽く側部より押圧しつつ、コーンカップ保持具はコーンカップ略中央部で固定される。

【0008】また請求項2に記載された本発明は、請求項1に記載された発明において、前記開口支持片は前記基板の中心部に設けた挿入口と、該挿入口の周縁より同一軸心状に複数の折曲線を蛇腹状に形成することを特徴とするものである。

【0009】かかる発明によれば、前記同様コーンカップにアイスクリームを盛り付けた後、コーンカップ先端をコーンカップ保持具の基板中心部に押し込めば良い。基板中心部における挿入口周縁に形成された蛇腹状の折曲部が下方に自然に拡がって、前記同様コーンカップ保持具はコーンカップ略中央部で固定される。

【0010】さらに請求項3に記載された本発明は、請求項1及び請求項2に記載された発明において、前記基板は略円形状をなし、前記外周辺においては該基板の外周縁より放射状に複数の折曲線が形成されているものであることを特徴とするものである。

【0011】かかる発明によれば、コーンカップ保持具の外周壁が、基板の外周辺全体を同時に上方に折り曲げることで自然に立ち上がるので、きわめて容易に形成される。

## 【0012】

【発明の実施の形態】以下、添付図面を参照しつつ本発明に係るアイスクリーム用コーンカップ保持具を説明する。図1は、請求項1に記載された本発明に係るアイスクリーム用コーンカップ保持具の実施例を示す展開図である。すなわち、本発明に係るアイスクリーム用コーンカップ保持具1は、例えば0.3mm厚程度の厚紙を素材として、コーンカップの直径に対応した大きさの各辺8cm程度の正形状からなる基板2及びその外周縁において幅1cm程度の第一外周辺4及び第二外周辺12（外周辺のうち相対向する組み合わせとなる）をそれぞれ第一折り曲げ部3及び第二折り曲げ部11を介して連設し、また第一外周辺4においては、さらにその外周縁にも幅1cm程度の折り返し辺6を第三折り曲げ部5を介して連設する。また折り返し辺6の外周縁においては長さ1cm幅3mm程度の差し込み部8を各辺二箇所ずつ程度突設すると共に、第二外周辺12の両端には支持片14を第四折り曲げ部13を介して連設する。さらに基板2の中心部において、直径1cm程度の円形からなる挿入口17を開口し、該挿入口の内周縁から長さ2.5cm程度の切り込み線18を放射状に8本程度切断することで開口支持片19を形成し、さらに放射状に広がった切り込み線18の末端により描かれる外周円上に第五折り曲げ部16を設け、一方差し込み部8が挿入される差し込み穴9を第一折り曲げ部3上に切断、形成する。

【0013】また図2は、アイスクリーム用コーンカップ保持具1の組立状態を示す斜視図である。図2に示されるように、まず第二外周辺12が第二折り曲げ部11より基板2に対し90度上方方向に立ち上げるよう折り曲げられ、続いて支持片14が第四折り曲げ部13より基板2の外周縁上に位置するよう折り曲げられる。また、第一外周辺4が第一折り曲げ部3より前記同様に基板2に対し90度上方方向に立ち上げるよう折り曲げられ、さらに接続された折り返し辺6は支持片14を挟み込みつつ第三折り曲げ部5により基板2に対し90度下方方向に折り返され、同時に折り返し辺6に突設された差し込み部8が差し込み穴9に挿入、固定されることにより、コーンカップ保持具1の外周壁部が組立て形成される。なお、これら全ての工程は、プレス切断加工による成形の後、手作業による折り曲げ加工あるいは自動折り曲げ加工が可能であり、本発明に係るアイスクリーム用コーンカップ保持具は、極めて安価に製作される。

【0014】図4は、請求項2に記載された本発明に係るアイスクリーム用コーンカップ保持具の実施例を示す斜視図である。本発明に係るアイスクリーム用コーンカップ保持具21は、例えば0.05mm厚程度の軟化プラスチックを素材として、請求項1に記載された本発明と同様の構成、すなわち図4に示されるような基板22、第一外周辺23、第二外周辺32、折り返し辺2

4、差し込み部29などにより、その外周壁部を組立て形成する。また基板22の中心部においては直径1cm程度の円形からなる挿入口27を開口し、その周縁より幅0.5mm程度間隔で同一軸心上に10本程度の折曲線28を蛇腹状に形成する。

【0015】また図5は、本発明に係るアイスクリーム用コーンカップ保持具21の使用状態を示す断面図である。すなわち、コーンカップ51にアイスクリームを盛り付けた後、コーンカップ51の先端をコーンカップ保持具21の基板中心部に押し込むことで、挿入口27の周縁より形成された蛇腹状の折曲部28はその末端26まで下方に拡がり、コーンカップ保持具21はコーンカップ51の略中央部で固定される。なお、予め蛇腹状の折り曲げ部28は下方に折り曲げ加工しておくことも可能であり、その場合にはコーンカップ51をコーンカップ保持具21に挿入、固定し易くなる。全ての工程が、一体プレス成形及び自動折り曲げが可能であり、本発明に係るアイスクリーム用コーンカップ保持具が極めて安価に製作されることも請求項1に記載された本発明と同様である。

【0016】また図6は、請求項3に記載された本発明に係るアイスクリーム用コーンカップ保持具の実施例を示す斜視図である。図6に示されるように、本発明に係るアイスクリーム用コーンカップ保持具41は、例えば0.1mm厚程度のアルミニウムを素材として、基板42を略円形状に形成し、その外周縁において幅1cm程度の外周辺48を第一折り曲げ部49を介して連設し、さらに外周辺48には該基板42の外周縁より中心部より放射状に幅3mm程度の間隔で複数の折曲線を形成する。また基板42の中心部において、挿入口44、切り込み線45、第二折り曲げ部43により開口支持片46を形成することは、請求項1に記載された発明と同様であり、場合によっては請求項2に記載された発明と同様に挿入口と蛇腹状の折り曲げ部により構成することもできる。かかる発明によれば、コーンカップ保持具の外周壁部が、第一折り曲げ部49より、外周辺48全体を上方に同時に折り曲げ加工することで立ち上がるので、きわめて容易に形成される。なお全ての工程が一体プレス成形及び自動折り曲げが可能であるのは、請求項1及び請求項2に記載された発明と同様である。

【0017】なお本発明に係るアイスクリーム用コーンカップ保持具は、もちろん上記実施例に限定されるものではない。例えば、基板の外周形状は図示された正形状、円形状に限られるものではなく、種々の装飾形状、例えば三角形状や星形状を採用することもできる。また外周壁部の形成方法は、前述の差し込み片を使用した組立方法や蛇腹を使用した折り曲げ方法に限られるものではなく、各外周辺の両端を、例えば食用接着剤（具体的には商標名ホットメルトなど）を使用することにより互いに接着して立ち上げることもできる。また、基板の



素材についても、前述の厚紙や軟質プラスチック、アルミニウムに限られるものではない。

#### 【0018】

【発明の効果】本発明は上記のような構成であるから、ソフトクリームなどのアイスクリームを食する時に徐々に溶解した垂液がコーンカップから漏れ出しても、アイスクリーム用コーンカップ保持具の外周壁部により基板上に溜められるので、流れ落ちて手指を汚す事はない。またナッツやチョコレート粒などによるトッピングを付したアイスクリームにあっても、トッピングの散乱が外周壁部により防止され極めて衛生的である。その使用にあたっては、ソフトクリームなどのアイスクリームをコーンカップに盛りつけた後、コーンカップ下部よりコーンカップ保持具の基板中心部に設けられた開口支持片や挿入口に単に差し込み固定する作業のみを行えば良く、特に迅速さが要求される飲食サービスにおいては実際的である。さらにソフトクリームなどのアイスクリームを歩きながら食する場合においても、アイスクリームの自重によりコーンカップがコーンカップ保持具との間に密着し、ここでコーンカップ保持具はコーンカップ自体より面積が広いので、より安定してソフトクリームなどのアイスクリームを手に保持することができる。なお持ち帰りされるソフトクリームなどのアイスクリームの場合にあっては、持ち帰りケースに、例えば正方形状や円形状などのコーンカップ保持具の外周形状と嵌合する凹穴を形成しておくことにより、コーンカップ保持具の外周壁面全体でソフトクリームなどのアイスクリームが係止され、より確実にケースに固定されるので、持ち運びも極めて安全となる。

#### 【0019】

##### 【図面の簡単な説明】

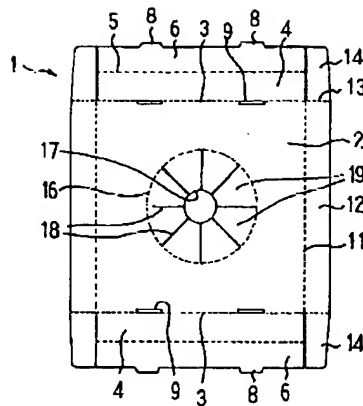
図1は、請求項1に記載された本発明に係るアイスクリーム用コーンカップ保持具の展開図である。図2は、請求項1に記載された本発明に係るアイスクリーム用コーンカップ保持具の組立状態を示す斜視図である。図3は請求項1に記載された本発明に係るアイスクリーム用コーンカップ保持具の使用状態を示す斜視図である。図4は、請求項2に記載された本発明に係るアイスクリーム用コーンカップ保持具の斜視図である。図5は、請求項2に記載された本発明に係るアイスクリーム用コーンカップ保持具の使用状態を示す断面図である。図6は、請求項3に記載された本発明に係るアイスクリーム用コー

ンカップ保持具を示す斜視図である。図7は、従来のアイスクリーム用コーンカップを示す側部断面図である。

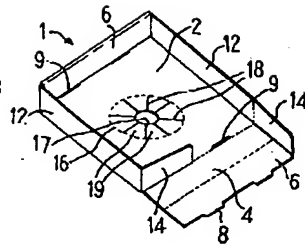
##### 【符号の説明】

- 1 アイスクリーム用コーンカップ保持具
- 2 基板
- 3 第一折り曲げ部
- 4 第一外周辺
- 5 第二折り曲げ部
- 6 折り返し辺
- 8 差し込み部
- 9 差し込み穴
- 11 第三折り曲げ部
- 12 第二外周辺
- 13 第四折り曲げ部
- 14 支持片
- 16 第五折り曲げ部
- 17 挿入口
- 18 切り込み線
- 19 開口支持片
- 21 アイスクリーム用コーンカップ保持具
- 22 基板
- 23 第一外周辺
- 24 折り返し辺
- 26 末端
- 27 挿入口
- 28 折り曲げ線
- 29 差し込み部
- 32 第二外周辺
- 41 アイスクリーム用コーンカップ保持具本体
- 42 基板
- 44 挿入口
- 45 切り込み線
- 46 開口支持片
- 48 外周辺
- 49 第一折り曲げ部
- 50 アイスクリーム
- 51 アイスクリーム用コーンカップ
- 61 アイスクリーム用コーンカップ
- 62 外側コーンカップ
- 63 内側コーンカップ
- 65 垂液受用ポケット

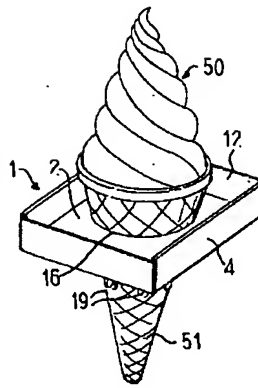
【図1】



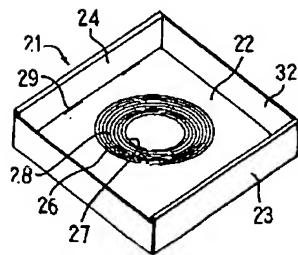
【図2】



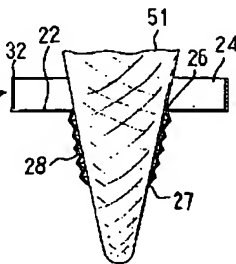
【図3】



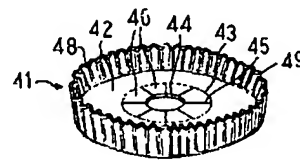
【図4】



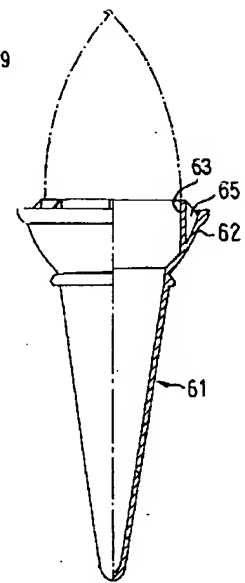
【図5】



【図6】



【図7】



**EXHIBIT K**

**EXHIBIT L**

**EXHIBIT M**

**EXHIBIT N**

»

**EXHIBIT O**

**EXHIBIT P**



EXHIBIT Q

**EXHIBIT R**

**EXHIBIT S**

**EXHIBIT T**

**EXHIBIT U**

EXHIBIT V

**EXHIBIT W**

**EXHIBIT X**



**EXHIBIT Y**

**EXHIBIT Z**

**EXHIBIT AA**

**EXHIBIT BB**

## Dictionary



rig-id (rĭj'ĭd)

adj.

1. Not flexible or pliant; stiff.
2. Not moving; fixed.
3. Marked by a lack of flexibility; rigorous and exacting: "We have watered down a rigid training . . . until we now have an educational diet in many of our public high schools that nourishes neither the classes nor the masses" (Agnes Meyer).
4. Scrupulously maintained or performed: *rigid discipline*. See synonyms at [stiff](#).

[Middle English *rigide*, from Latin *rigidus*, from *rigēre*, to be stiff.]

rigidly rĭj'ĭd-ly adv.

rigidness rĭj'ĭd-ness *n*.

## Thesaurus



rigid

adjective

1. Not changing shape or bending: [inelastic](#), [inflexible](#), [stiff](#), [unbending](#), [unyielding](#). See [flexible/rigid](#).
2. Incapable of changing or being modified: [immutable](#), [inalterable](#), [inflexible](#), [invariable](#), [ironclad](#), [unalterable](#), [unchangeable](#). See [flexible/rigid](#).
3. Firmly, often unreasonably immovable in purpose or will: [adamant](#), [adamantine](#), [brassbound](#), [die-hard](#), [grim](#), [implacable](#), [incompliant](#), [inexorable](#), [inflexible](#), [intransigent](#), [iron](#), [obdurate](#), [relentless](#), [remorseless](#), [stubborn](#), [unbendable](#), [unbending](#), [uncompliant](#), [uncompromising](#), [unrelenting](#), [unyielding](#). *Idioms:* stubborn as an [amuleox](#). See [resist/yield](#).
4. Rigorous and unsparing in treating others: [demanding](#), [exacting](#), [hard](#), [harsh](#), [severe](#), [stern](#), [strict](#), [tough](#), [unyielding](#). See [easy/hard](#).

## Antonyms



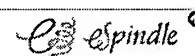
rigid

adj

Definition: stiff, strict, severe

Antonyms: bending, flexible, lenient, limber, pliable, pliant, soft, yielding

## Word Tutor



rigid

IN BRIEF: Stiff and firm; held firmly. Also: Strict; not changing.

The rigid wooden beams supported the roof of the house.

## Wikipedia



rigid

This article is about mathematics. For the materials sense, see [Stiffness](#).

In [mathematics](#), suppose  $C$  is a collection of mathematical objects (for instance sets or functions). Then we say that  $C$  is **rigid** if every  $c \in C$  is uniquely determined by less information about  $c$  than is necessary a priori.

It should be emphasized that the above statement does not define a mathematical property. Instead, it describes in what sense the adjective rigid is typically used in mathematics, by mathematicians.

Some examples include:

1. [Harmonic functions](#) on the unit disk are rigid in the sense that they are uniquely determined by their boundary values.
2. [Holomorphic functions](#) are determined by the set of all derivatives at a single point. A smooth function from the real line to the complex plane is not, in general, determined by all its derivatives at a single point, but it is if we require additionally that it be possible to extend the function to one on a neighbourhood of the real line in the complex plane. The [Schwarz lemma](#) is an example of such a rigidity theorem.
3. By the [fundamental theorem of algebra](#), [polynomials](#) in  $C$  are rigid in the sense that any polynomial is completely determined by its values on any countably [infinite set](#), say  $N$ , or the unit disk. Note that by the previous example, a polynomial is also determined within the set of holomorphic functions by the finite set of its non-zero derivatives at any single point.
4. Linear maps  $L(X,Y)$  between vector spaces  $X, Y$  are rigid in the sense that any  $L \in L(X,Y)$  is completely determined by its values on any set of [basis vectors](#) of  $X$ .
5. [Mostow's rigidity theorem](#), which states that negatively curved manifolds are isomorphic if some rather weak conditions on them hold.
6. A [well-ordered set](#) is rigid in the sense that the only [\(order-preserving\) automorphism](#) on it is the identity function. Consequently, an [isomorphism](#) between two given well-ordered sets will be unique.
7. A [rigid motion](#) of a subset of [Euclidean space](#) is not always defined the same: it may be any distance-preserving transformation of the collection of points (i.e. a composition of translations, rotations, and reflections), or only those preserving orientation (i.e. a composition of translations and rotations). In the latter case the concept of rigidity is analogous to that of a physically inflexible solid, which must be moved as a single entity so that its movement (up to atomic motions indiscernible to the naked eye) is completely determined by the displacement of a single "point" and the orientation of the solid body about that point. More generally, a rigid motion of a metric space is a (self)-[isometry](#).

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Translations for: Rigid

Dansk (Danish)

adj. - stiv, uelastisk, ufleksibel, ubøjelig, streng  
n. - (ngt. der er stift osv.)

Nederlands (Dutch)

stijf, star

Français (French)

adj. - rigide, strict, raide  
n. - rigidité

Deutsch (German)

adj. - steif, hart, starr  
n. - Steifheit

Ελληνική (Greek)

adj. - άκαμπτος, αλύγιστος, δύσκαμπτος, ακίνητος (κν. κοκαλωμένος), αυστηρός, άτεγκτος

Italiano (Italian)

rigido

Português (Portuguese)

adj. - rígido, inflexível, rigoroso

Русский (Russian)

жесткий, негнущийся, негибкий

Español (Spanish)

adj. - rígido, tieso, inflexible, severo, riguroso  
n. - persona severa o inflexible

Svenska (Swedish)

adj. - rigid, fast, sträng

??(?) (Chinese (Simplified))

???, ?????, ???, ???, ???

??(?) (Chinese (Traditional))

adj. - ???, ?????, ???, ???  
n. - ???

??? (Korean)

adj. - ???, ???, ???  
n. - ???, ???

??? (Japanese)

adj. - ??, ??, ???, ???, ???, ???, ???, ???

العربية (Arabic)

(صفة) جامد, صلب, قاس,

עברית (Hebrew)

adj. - קשוח, קשה, מאובן, קפדן  
n. - קשוח, קשה, מאובן, קפדן

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